

**TAX MODIFICATIONS**

2021 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill modifies provisions related to tax.

**Highlighted Provisions:**

This bill:

- ▶ clarifies the signature requirements for the form a new owner of residential property uses to declare that the residential property qualifies for the primary residential exemption;
- ▶ amends the calculation of certain tax credits to match the applicable income tax rate;
- ▶ integrates the income tax code provisions from 2020 Third Special Session, H.B. 3003, Income Tax Revisions, into the Utah Code;
- ▶ integrates the sales tax code provisions from 2020 Fourth Special Session, H.B. 4002, Rail Fuel Sales Tax Amendments, into the Utah Code; and
- ▶ makes technical corrections, including eliminating references to repealed provisions, eliminating redundant or obsolete language, and updating cross-references.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 11-41-102**, as last amended by Laws of Utah 2016, Chapter 176
- 26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393
- 35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421
- 35A-8-309**, as last amended by Laws of Utah 2019, Chapter 493
- 59-2-103.5**, as last amended by Laws of Utah 2020, Chapter 78

- 33 **59-1-401 (Effective 01/01/21)**, as last amended by Laws of Utah 2020, Chapter 294
- 34 **59-2-1602**, as last amended by Laws of Utah 2020, Chapter 447
- 35 **59-7-118**, as last amended by Laws of Utah 2019, Chapter 11
- 36 **59-7-159**, as last amended by Laws of Utah 2019, Chapters 247 and 465
- 37 **59-7-504**, as last amended by Laws of Utah 1995, Chapter 311
- 38 **59-7-505**, as last amended by Laws of Utah 1997, Chapter 332
- 39 **59-7-507**, as last amended by Laws of Utah 2007, Chapter 269
- 40 **59-7-610**, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last
- 41 amended by Coordination Clause, Laws of Utah 2020, Chapter 360
- 42 **59-7-620**, as last amended by Laws of Utah 2020, Chapter 46
- 43 **59-10-103**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
- 44 **59-10-114**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
- 45 **59-10-137**, as last amended by Laws of Utah 2019, Chapters 247 and 465
- 46 **59-10-507**, as last amended by Laws of Utah 2016, Chapter 87
- 47 **59-10-514**, as last amended by Laws of Utah 2016, Chapter 87
- 48 **59-10-516**, as last amended by Laws of Utah 2010, Chapter 271
- 49 **59-10-522**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 50 **59-10-1007**, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last
- 51 amended by Coordination Clause, Laws of Utah 2020, Chapter 360
- 52 **59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389
- 53 **59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389
- 54 **59-10-1022**, as enacted by Laws of Utah 2008, Chapter 389
- 55 **59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389
- 56 **59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399
- 57 **59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222
- 58 **59-10-1036**, as enacted by Laws of Utah 2016, Chapter 55
- 59 **59-10-1403**, as last amended by Laws of Utah 2017, Chapter 270
- 60 **59-10-1403.3**, as enacted by Laws of Utah 2017, Chapter 270
- 61 **59-12-102**, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
- 62 **59-12-103**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
- 63 **59-12-104**, as last amended by Laws of Utah 2020, Chapters 44, 91, 354, 412, and 438

## 64 REPEALS:

- 65           **59-7-118.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
66           **59-7-504.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
67           **59-7-505.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
68           **59-7-507.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
69           **59-10-103.2**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
70           **59-10-114.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
71           **59-10-514.2**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
72           **59-10-516.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
73           **59-10-522.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
74           **59-10-1403.4**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4  
75           **59-12-103.3 (Effective 01/01/21)**, as enacted by Laws of Utah 2020, Fourth Special  
76           Session, Chapter 2

77

78 *Be it enacted by the Legislature of the state of Utah:*79           Section 1. Section **11-41-102** is amended to read:80           **11-41-102. Definitions.**

81           As used in this chapter:

82           (1) "Agreement" means an oral or written agreement between a:

83           (a) (i) county; or

84           (ii) municipality; and

85           (b) person.

86           (2) "Municipality" means a:

87           (a) city;

88           (b) town; or

89           (c) metro township.

90           (3) "Payment" includes:

91           (a) a payment;

92           (b) a rebate;

93           (c) a refund; or

- 94 (d) an amount similar to Subsections (3)(a) through (c).
- 95 (4) "Regional retail business" means a:
- 96 (a) retail business that occupies a floor area of more than 80,000 square feet;
- 97 (b) dealer as defined in Section 41-1a-102;
- 98 (c) retail shopping facility that has at least two anchor tenants if the total number of
- 99 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
- 100 feet; or
- 101 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 102 (5) (a) "Sales and use tax" means a tax:
- 103 (i) imposed on transactions within a:
- 104 (A) county; or
- 105 (B) municipality; and
- 106 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
- 107 Sales and Use Tax Act.
- 108 (b) [~~Notwithstanding Subsection (5)(a)(ii), "sales]~~ "Sales and use tax" does not include
- 109 a tax authorized under:
- 110 (i) Subsection 59-12-103(2)(a)(i);
- 111 (ii) Subsection 59-12-103(2)(b)(i);
- 112 (iii) Subsection 59-12-103(2)(c)(i);
- 113 (iv) Subsection 59-12-103(2)(d);
- 114 [~~(v)~~] (v) Subsection 59-12-103(2)[~~(d)~~](e)(i)(A);
- 115 [~~(v)~~] (vi) Section 59-12-301;
- 116 [~~(vi)~~] (vii) Section 59-12-352;
- 117 [~~(vii)~~] (viii) Section 59-12-353;
- 118 [~~(viii)~~] (ix) Section 59-12-603; or
- 119 [~~(ix)~~] (x) Section 59-12-1201.
- 120 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 121 (i) to a person;
- 122 (ii) by a:
- 123 (A) county; or
- 124 (B) municipality;

125 (iii) to induce the person to locate or relocate a regional retail business within the:

126 (A) county; or

127 (B) municipality; and

128 (iv) that are derived from a sales and use tax.

129 (b) "Sales and use tax incentive payment" does not include funding for public

130 infrastructure.

131 Section 2. Section **26-36b-208** is amended to read:

132 **26-36b-208. Medicaid Expansion Fund.**

133 (1) There is created an expendable special revenue fund known as the Medicaid

134 Expansion Fund.

135 (2) The fund consists of:

136 (a) assessments collected under this chapter;

137 (b) intergovernmental transfers under Section 26-36b-206;

138 (c) savings attributable to the health coverage improvement program as determined by

139 the department;

140 (d) savings attributable to the enhancement waiver program as determined by the

141 department;

142 (e) savings attributable to the Medicaid waiver expansion as determined by the

143 department;

144 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list

145 under Subsection 26-18-2.4(3) as determined by the department;

146 (g) revenues collected from the sales tax described in Subsection 59-12-103~~(13)~~(12);

147 (h) gifts, grants, donations, or any other conveyance of money that may be made to the

148 fund from private sources;

149 (i) interest earned on money in the fund; and

150 (j) additional amounts as appropriated by the Legislature.

151 (3) (a) The fund shall earn interest.

152 (b) All interest earned on fund money shall be deposited into the fund.

153 (4) (a) A state agency administering the provisions of this chapter may use money from

154 the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

155 (i) the health coverage improvement program;

156 (ii) the enhancement waiver program;  
 157 (iii) a Medicaid waiver expansion; and  
 158 (iv) the outpatient upper payment limit supplemental payments under Section  
 159 26-36b-210.

160 (b) A state agency administering the provisions of this chapter may not use:  
 161 (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper  
 162 payment limit supplemental payments; or  
 163 (ii) money in the fund for any purpose not described in Subsection (4)(a).

164 Section 3. Section **35A-8-308** is amended to read:

165 **35A-8-308. Throughput Infrastructure Fund.**

166 (1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

167 (2) The fund consists of money generated from the following revenue sources:

168 (a) all amounts transferred to the fund [~~under Subsection 59-12-103(12)~~] by statute;

169 (b) any voluntary contributions received;

170 (c) appropriations made to the fund by the Legislature; and

171 (d) all amounts received from the repayment of loans made by the impact board under  
 172 Section 35A-8-309.

173 (3) The state treasurer shall:

174 (a) invest the money in the fund by following the procedures and requirements of Title  
 175 51, Chapter 7, State Money Management Act; and

176 (b) deposit all interest or other earnings derived from those investments into the fund.

177 Section 4. Section **35A-8-309** is amended to read:

178 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**

179 **Uses -- Review by board -- Annual report -- First project.**

180 (1) The impact board shall:

181 (a) make grants and loans from the Throughput Infrastructure Fund created in Section  
 182 35A-8-308 for a throughput infrastructure project;

183 (b) use money transferred to the Throughput Infrastructure Fund in accordance with  
 184 [~~Subsection 59-12-103(12)~~] statute to provide a loan or grant to finance the cost of acquisition  
 185 or construction of a throughput infrastructure project to one or more local political  
 186 subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal

187 Cooperation Act;

188 (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion  
189 of the fund revolving;

190 (d) determine provisions for repayment of loans;

191 (e) establish criteria for awarding loans and grants; and

192 (f) establish criteria for determining eligibility for assistance under this section.

193 (2) The cost of acquisition or construction of a throughput infrastructure project  
194 includes amounts for working capital, reserves, transaction costs, and other amounts  
195 determined by the impact board to be allocable to a throughput infrastructure project.

196 (3) The impact board may restructure or forgive all or part of a local political  
197 subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.

198 (4) To receive assistance under this section, a local political subdivision or an  
199 interlocal agency shall submit a formal application containing the information that the impact  
200 board requires.

201 (5) (a) The impact board shall:

202 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant  
203 before approving the loan or grant and may condition its approval on whatever assurances the  
204 impact board considers necessary to ensure that proceeds of the loan or grant will be used in  
205 accordance with this section;

206 (ii) ensure that each loan specifies terms for interest deferments, accruals, and  
207 scheduled principal repayment; and

208 (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of  
209 the appropriate local political subdivision or interlocal agency issued to the impact board and  
210 payable from the net revenues of a throughput infrastructure project.

211 (b) An instrument described in Subsection (5)(a)(iii) may be:

212 (i) non-recourse to the local political subdivision or interlocal agency; and

213 (ii) limited to a pledge of the net revenues from a throughput infrastructure project.

214 (6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate  
215 from the Throughput Infrastructure Fund to the board those amounts that are appropriated by  
216 the Legislature for the administration of the Throughput Infrastructure Fund.

217 (b) The amount described in Subsection (6)(a) may not exceed 2% of the annual

218 receipts to the fund.

219 (7) The board shall include in the annual written report described in Section  
220 35A-1-109:

221 (a) the number and type of loans and grants made under this section; and

222 (b) a list of local political subdivisions or interlocal agencies that received assistance  
223 under this section.

224 (8) (a) The first throughput infrastructure project considered by the impact board shall  
225 be a bulk commodities ocean terminal project.

226 (b) Upon receipt of an application from an interlocal agency created for the sole  
227 purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean  
228 terminal project, the impact board shall:

229 (i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal  
230 agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition  
231 of the throughput infrastructure project; and

232 (ii) fund the interlocal agency's application if the application meets all criteria  
233 established by the impact board.

234 Section 5. Section **59-1-401 (Effective 01/01/21)** is amended to read:

235 **59-1-401 (Effective 01/01/21). Definitions -- Offenses and penalties -- Rulemaking**  
236 **authority -- Statute of limitations -- Commission authority to waive, reduce, or**  
237 **compromise penalty or interest.**

238 (1) As used in this section:

239 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the  
240 commission:

241 (i) has implemented the commission's GenTax system; and

242 (ii) at least 30 days before implementing the commission's GenTax system as described  
243 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website  
244 stating:

245 (A) the date the commission will implement the GenTax system with respect to the tax,  
246 fee, or charge; and

247 (B) that, at the time the commission implements the GenTax system with respect to the  
248 tax, fee, or charge:

249 (I) a person that files a return after the due date as described in Subsection (2)(a) is  
250 subject to the penalty described in Subsection (2)(c)(ii); and

251 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is  
252 subject to the penalty described in Subsection (3)(b)(ii).

253 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or  
254 charge, the later of:

255 (i) the date on which the commission implements the commission's GenTax system  
256 with respect to the tax, fee, or charge; or

257 (ii) 30 days after the date the commission provides the notice described in Subsection  
258 (1)(a)(ii) with respect to the tax, fee, or charge.

259 (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

260 (A) a tax, fee, or charge the commission administers under:

261 (I) this title;

262 (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

263 (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

264 (IV) Section 19-6-410.5;

265 (V) Section 19-6-714;

266 (VI) Section 19-6-805;

267 (VII) Section 34A-2-202;

268 (VIII) Section 40-6-14; or

269 (IX) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service  
270 Charges; or

271 (B) another amount that by statute is subject to a penalty imposed under this section.

272 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

273 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

274 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

275 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

276 (D) Chapter 3, Tax Equivalent Property Act; or

277 (E) Chapter 4, Privilege Tax.

278 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated  
279 tax, fee, or charge.

- 280 (2) (a) The due date for filing a return is:
- 281 (i) if the person filing the return is not allowed by law an extension of time for filing
- 282 the return, the day on which the return is due as provided by law; or
- 283 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 284 return, the earlier of:
- 285 (A) the date the person files the return; or
- 286 (B) the last day of that extension of time as allowed by law.
- 287 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
- 288 return after the due date described in Subsection (2)(a).
- 289 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 290 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 291 tax, fee, or charge:
- 292 (A) \$20; or
- 293 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 294 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 295 fee, or charge, beginning on the activation date for the tax, fee, or charge:
- 296 (A) \$20; or
- 297 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
- 298 filed no later than five days after the due date described in Subsection (2)(a);
- 299 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
- 300 more than five days after the due date but no later than 15 days after the due date described in
- 301 Subsection (2)(a); or
- 302 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is
- 303 filed more than 15 days after the due date described in Subsection (2)(a).
- 304 (d) This Subsection (2) does not apply to:
- 305 (i) an amended return; or
- 306 (ii) a return with no tax due.
- 307 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
- 308 (i) the person files a return on or before the due date for filing a return described in
- 309 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
- 310 date;

- 311 (ii) the person:
- 312 (A) is subject to a penalty under Subsection (2)(b); and
- 313 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
- 314 due date for filing a return described in Subsection (2)(a);
- 315 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
- 316 (B) the commission estimates an amount of tax due for that person in accordance with
- 317 Subsection 59-1-1406(2);
- 318 (iv) the person:
- 319 (A) is mailed a notice of deficiency; and
- 320 (B) within a 30-day period after the day on which the notice of deficiency described in
- 321 Subsection (3)(a)(iv)(A) is mailed:
- 322 (I) does not file a petition for redetermination or a request for agency action; and
- 323 (II) fails to pay the tax, fee, or charge due on a return;
- 324 (v) (A) the commission:
- 325 (I) issues an order constituting final agency action resulting from a timely filed petition
- 326 for redetermination or a timely filed request for agency action; or
- 327 (II) is considered to have denied a request for reconsideration under Subsection
- 328 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
- 329 request for agency action; and
- 330 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
- 331 after the date the commission:
- 332 (I) issues the order constituting final agency action described in Subsection
- 333 (3)(a)(v)(A)(I); or
- 334 (II) is considered to have denied the request for reconsideration described in
- 335 Subsection (3)(a)(v)(A)(II); or
- 336 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
- 337 of a final judicial decision resulting from a timely filed petition for judicial review.
- 338 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
- 339 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
- 340 respect to an unactivated tax, fee, or charge:
- 341 (A) \$20; or

- 342 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or  
343 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
344 respect to an activated tax, fee, or charge, beginning on the activation date:
- 345 (A) \$20; or  
346 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated  
347 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a  
348 return described in Subsection (2)(a);  
349 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,  
350 fee, or charge due on the return is paid more than five days after the due date for filing a return  
351 described in Subsection (2)(a) but no later than 15 days after that due date; or  
352 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated  
353 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a  
354 return described in Subsection (2)(a).
- 355 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or  
356 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there  
357 shall be added a penalty in an amount determined by applying the interest rate provided under  
358 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period  
359 of the underpayment.
- 360 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the  
361 excess of the required installment over the amount, if any, of the installment paid on or before  
362 the due date for the installment.
- 363 (ii) The period of the underpayment shall run from the due date for the installment to  
364 whichever of the following dates is the earlier:
- 365 (A) the original due date of the tax return, without extensions, for the taxable year; or  
366 (B) with respect to any portion of the underpayment, the date on which that portion is  
367 paid.
- 368 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited  
369 against unpaid required installments in the order in which the installments are required to be  
370 paid.
- 371 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a  
372 person allowed by law an extension of time for filing a corporate franchise or income tax return

373 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return  
374 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in  
375 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not  
376 including the extension of time, the person fails to pay:

377 (i) for a person filing a corporate franchise or income tax return under Chapter 7,  
378 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

379 (ii) for a person filing an individual income tax return under Chapter 10, Individual  
380 Income Tax Act, the payment required by Subsection 59-10-516(2).

381 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the  
382 extension of time for filing the return is an amount equal to 2% of the tax due on the return,  
383 unpaid as of the day on which the return is due as provided by law.

384 (6) If a person does not file a return within an extension of time allowed by Section  
385 59-7-505 or 59-10-516, the person:

386 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

387 (b) is subject to a penalty in an amount equal to the sum of:

388 (i) a late file penalty in an amount equal to the greater of:

389 (A) \$20; or

390 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as  
391 provided by law, not including the extension of time; and

392 (ii) a late pay penalty in an amount equal to the greater of:

393 (A) \$20; or

394 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is  
395 due as provided by law, not including the extension of time.

396 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided  
397 in this Subsection (7)(a).

398 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,  
399 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that  
400 is due to negligence.

401 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a  
402 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire  
403 underpayment.

404 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,  
405 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

406 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or  
407 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

408 (b) If the commission determines that a person is liable for a penalty imposed under  
409 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed  
410 penalty.

411 (i) The notice of proposed penalty shall:

412 (A) set forth the basis of the assessment; and

413 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.

414 (ii) Upon receipt of the notice of proposed penalty, the person against whom the  
415 penalty is proposed may:

416 (A) pay the amount of the proposed penalty at the place and time stated in the notice;

417 or

418 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

419 (iii) A person against whom a penalty is proposed in accordance with this Subsection  
420 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with  
421 the commission.

422 (iv) (A) If the commission determines that a person is liable for a penalty under this  
423 Subsection (7), the commission shall assess the penalty and give notice and demand for  
424 payment.

425 (B) The commission shall mail the notice and demand for payment described in  
426 Subsection (7)(b)(iv)(A):

427 (I) to the person's last-known address; and

428 (II) in accordance with Section 59-1-1404.

429 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not  
430 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

431 (i) a court of competent jurisdiction issues a final unappealable judgment or order  
432 determining that:

433 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

434 or is a seller required to pay or collect and remit sales and use taxes under Subsection

435 59-12-107(2)(b) or (2)(c); and

436 (B) the commission or a county, city, or town may require the seller to collect a tax  
437 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or

438 (ii) the commission issues a final unappealable administrative order determining that:

439 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
440 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
441 59-12-107(2)(b) or (2)(c); and

442 (B) the commission or a county, city, or town may require the seller to collect a tax  
443 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e).

444 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not  
445 subject to the penalty under Subsection (7)(a)(ii) if:

446 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order  
447 determining that:

448 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
449 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
450 59-12-107(2)(b) or (2)(c); and

451 (II) the commission or a county, city, or town may require the seller to collect a tax  
452 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or

453 (B) the commission issues a final unappealable administrative order determining that:

454 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
455 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
456 59-12-107(2)(b) or (2)(c); and

457 (II) the commission or a county, city, or town may require the seller to collect a tax  
458 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); and

459 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a  
460 nonfrivolous argument for the extension, modification, or reversal of existing law or the  
461 establishment of new law.

462 (8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an  
463 information return, information report, or a complete supporting schedule is \$50 for each  
464 information return, information report, or supporting schedule up to a maximum of \$1,000.

465 (b) If an employer is subject to a penalty under Subsection (13), the employer may not

466 be subject to a penalty under Subsection (8)(a).

467 (c) If an employer is subject to a penalty under this Subsection (8) for failure to file a  
468 return in accordance with Subsection 59-10-406(3) on or before the due date described in  
469 Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this  
470 Subsection (8) unless the return is filed more than 14 days after the due date described in  
471 Subsection 59-10-406(3)(b)(ii).

472 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay  
473 or impede administration of a law relating to a tax, fee, or charge and files a purported return  
474 that fails to contain information from which the correctness of reported tax, fee, or charge  
475 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is  
476 substantially incorrect, the penalty is \$500.

477 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by  
478 Subsection 59-12-108(1)(a):

479 (i) is subject to a penalty described in Subsection (2); and

480 (ii) may not retain the percentage of sales and use taxes that would otherwise be  
481 allowable under Subsection 59-12-108(2).

482 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as  
483 required by Subsection 59-12-108(1)(a)(ii)(B):

484 (i) is subject to a penalty described in Subsection (2); and

485 (ii) may not retain the percentage of sales and use taxes that would otherwise be  
486 allowable under Subsection 59-12-108(2).

487 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

488 (i) commits an act described in Subsection (11)(b) with respect to one or more of the  
489 following documents:

490 (A) a return;

491 (B) an affidavit;

492 (C) a claim; or

493 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

494 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)  
495 will be used in connection with any material matter administered by the commission; and

496 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection

497 with any material matter administered by the commission, would result in an understatement of  
498 another person's liability for a tax, fee, or charge.

499 (b) The following acts apply to Subsection (11)(a)(i):

500 (i) preparing any portion of a document described in Subsection (11)(a)(i);

501 (ii) presenting any portion of a document described in Subsection (11)(a)(i);

502 (iii) procuring any portion of a document described in Subsection (11)(a)(i);

503 (iv) advising in the preparation or presentation of any portion of a document described  
504 in Subsection (11)(a)(i);

505 (v) aiding in the preparation or presentation of any portion of a document described in  
506 Subsection (11)(a)(i);

507 (vi) assisting in the preparation or presentation of any portion of a document described  
508 in Subsection (11)(a)(i); or

509 (vii) counseling in the preparation or presentation of any portion of a document  
510 described in Subsection (11)(a)(i).

511 (c) For purposes of Subsection (11)(a), the penalty:

512 (i) shall be imposed by the commission;

513 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which  
514 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

515 (iii) is in addition to any other penalty provided by law.

516 (d) The commission may seek a court order to enjoin a person from engaging in  
517 conduct that is subject to a penalty under this Subsection (11).

518 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
519 commission may make rules prescribing the documents that are similar to Subsections  
520 (11)(a)(i)(A) through (C).

521 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as  
522 provided in Subsections (12)(b) through (e).

523 (b) (i) A person who is required by this title or any laws the commission administers or  
524 regulates to register with or obtain a license or permit from the commission, who operates  
525 without having registered or secured a license or permit, or who operates when the registration,  
526 license, or permit is expired or not current, is guilty of a class B misdemeanor.

527 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the

528 penalty may not:

529 (A) be less than \$500; or

530 (B) exceed \$1,000.

531 (c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally,

532 and without a reasonable good faith basis, fails to make, render, sign, or verify a return within

533 the time required by law or to supply information within the time required by law, or who

534 makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false

535 or fraudulent information, is guilty of a third degree felony.

536 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the

537 penalty may not:

538 (A) be less than \$1,000; or

539 (B) exceed \$5,000.

540 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or

541 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,

542 guilty of a second degree felony.

543 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the

544 penalty may not:

545 (A) be less than \$1,500; or

546 (B) exceed \$25,000.

547 (e) (i) A person is guilty of a second degree felony if that person commits an act:

548 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following

549 documents:

550 (I) a return;

551 (II) an affidavit;

552 (III) a claim; or

553 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

554 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in

555 Subsection (12)(e)(i)(A):

556 (I) is false or fraudulent as to any material matter; and

557 (II) could be used in connection with any material matter administered by the

558 commission.

- 559 (ii) The following acts apply to Subsection (12)(e)(i):
- 560 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 561 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 562 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 563 (D) advising in the preparation or presentation of any portion of a document described
- 564 in Subsection (12)(e)(i)(A);
- 565 (E) aiding in the preparation or presentation of any portion of a document described in
- 566 Subsection (12)(e)(i)(A);
- 567 (F) assisting in the preparation or presentation of any portion of a document described
- 568 in Subsection (12)(e)(i)(A); or
- 569 (G) counseling in the preparation or presentation of any portion of a document
- 570 described in Subsection (12)(e)(i)(A).
- 571 (iii) This Subsection (12)(e) applies:
- 572 (A) regardless of whether the person for which the document described in Subsection
- 573 (12)(e)(i)(A) is prepared or presented:
- 574 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- 575 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
- 576 (B) in addition to any other penalty provided by law.
- 577 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
- 578 penalty may not:
- 579 (A) be less than \$1,500; or
- 580 (B) exceed \$25,000.
- 581 (v) The commission may seek a court order to enjoin a person from engaging in
- 582 conduct that is subject to a penalty under this Subsection (12)(e).
- 583 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 584 the commission may make rules prescribing the documents that are similar to Subsections
- 585 (12)(e)(i)(A)(I) through (III).
- 586 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
- 587 the later of six years:
- 588 (i) from the date the tax should have been remitted; or
- 589 (ii) after the day on which the person commits the criminal offense.

590 (13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with  
591 the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described  
592 in Subsection (13)(b) if the employer:

593 (i) fails to file the form with the commission in an electronic format approved by the  
594 commission as required by Subsection 59-10-406(8);

595 (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

596 (iii) fails to provide accurate information on the form; or

597 (iv) fails to provide all of the information required by the Internal Revenue Service to  
598 be contained on the form.

599 (b) For purposes of Subsection (13)(a), the penalty is:

600 (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the  
601 form in accordance with Subsection 59-10-406(8), more than 14 days after the due date  
602 provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in  
603 Subsection 59-10-406(8);

604 (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the  
605 form in accordance with Subsection 59-10-406(8), more than 30 days after the due date  
606 provided in Subsection 59-10-406(8) but on or before June 1; or

607 (iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

608 (A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

609 (B) fails to file the form.

610 (14) Upon making a record of its actions, and upon reasonable cause shown, the  
611 commission may waive, reduce, or compromise any of the penalties or interest imposed under  
612 this part.

613 Section 6. Section **59-2-103.5** is amended to read:

614 **59-2-103.5. Procedures to obtain an exemption for residential property --**

615 **Procedure if property owner or property no longer qualifies to receive a residential**  
616 **exemption.**

617 (1) Subject to Subsection (8), for residential property other than part-year residential  
618 property, a county legislative body may adopt an ordinance that requires an owner to file an  
619 application with the county board of equalization before a residential exemption under Section  
620 59-2-103 may be applied to the value of the residential property if:

621 (a) the residential property was ineligible for the residential exemption during the  
622 calendar year immediately preceding the calendar year for which the owner is seeking to have  
623 the residential exemption applied to the value of the residential property;

624 (b) an ownership interest in the residential property changes; or

625 (c) the county board of equalization determines that there is reason to believe that the  
626 residential property no longer qualifies for the residential exemption.

627 (2) (a) The application described in Subsection (1):

628 (i) shall be on a form the commission prescribes by rule and makes available to the  
629 counties;

630 (ii) shall be signed by the owner of the residential property; and

631 (iii) may not request the sales price of the residential property.

632 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
633 commission may make rules prescribing the contents of the form described in Subsection  
634 (2)(a).

635 (c) For purposes of the application described in Subsection (1), a county may not  
636 request information from an owner of a residential property beyond the information provided in  
637 the form prescribed by the commission under this Subsection (2).

638 (3) (a) Regardless of whether a county legislative body adopts an ordinance described  
639 in Subsection (1), before a residential exemption may be applied to the value of part-year  
640 residential property, an owner of the property shall:

641 (i) file the application described in Subsection (2)(a) with the county board of  
642 equalization; and

643 (ii) include as part of the application described in Subsection (2)(a) a statement that  
644 certifies:

645 (A) the date the part-year residential property became residential property;

646 (B) that the part-year residential property will be used as residential property for 183 or  
647 more consecutive calendar days during the calendar year for which the owner seeks to obtain  
648 the residential exemption; and

649 (C) that the owner, or a member of the owner's household, may not claim a residential  
650 exemption for any property for the calendar year for which the owner seeks to obtain the  
651 residential exemption, other than the part-year residential property, or as allowed under Section

652 59-2-103 with respect to the primary residence or household furnishings, furniture, and  
653 equipment of the owner's tenant.

654 (b) An owner may not obtain a residential exemption for part-year residential property  
655 unless the owner files an application under this Subsection (3) on or before November 30 of the  
656 calendar year for which the owner seeks to obtain the residential exemption.

657 (c) If an owner files an application under this Subsection (3) on or after May 1 of the  
658 calendar year for which the owner seeks to obtain the residential exemption, the county board  
659 of equalization may require the owner to pay an application fee of not to exceed \$50.

660 (4) Except as provided in Subsection (5), if a property owner no longer qualifies to  
661 receive a residential exemption authorized under Section 59-2-103 for the property owner's  
662 primary residence, the property owner shall:

663 (a) file a written statement with the county board of equalization of the county in which  
664 the property is located:

665 (i) on a form provided by the county board of equalization; and

666 (ii) notifying the county board of equalization that the property owner no longer  
667 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property  
668 owner's primary residence; and

669 (b) declare on the property owner's individual income tax return under Chapter 10,  
670 Individual Income Tax Act, for the taxable year for which the property owner no longer  
671 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property  
672 owner's primary residence, that the property owner no longer qualifies to receive a residential  
673 exemption authorized under Section 59-2-103 for the property owner's primary residence.

674 (5) A property owner is not required to file a written statement or make the declaration  
675 described in Subsection (4) if the property owner:

676 (a) changes primary residences;

677 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for  
678 the residence that was the property owner's former primary residence; and

679 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for  
680 the residence that is the property owner's current primary residence.

681 (6) Subsections (2) through (5) do not apply to qualifying exempt primary residential  
682 rental personal property.

683 (7) (a) Subject to Subsection (8), for the first calendar year in which a property owner  
684 qualifies to receive a residential exemption under Section 59-2-103, a county assessor may  
685 require the property owner to file a signed statement described in Section 59-2-306.

686 (b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year  
687 after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an  
688 exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential  
689 rental personal property, a signed statement described in Section 59-2-306 with respect to the  
690 qualifying exempt primary residential rental personal property may only require the property  
691 owner to certify, under penalty of perjury, that the property owner qualifies for the exemption  
692 under Subsection 59-2-1115(2).

693 (8) (a) Subject to the requirements of this Subsection (8) and except as provided in  
694 Subsection (8)(b), on or before May 1, 2020, a county assessor shall:

695 (i) notify each owner of residential property that the owner is required to submit a  
696 written declaration described in Subsection (8)(d) within 30 days after the day on which the  
697 county assessor mails the notice under this Subsection (8)(a); and

698 (ii) provide each owner with a form described in Subsection (8)(e) to make the written  
699 declaration described in Subsection (8)(d).

700 (b) A county assessor is not required to provide a notice to an owner of residential  
701 property under Subsection (8)(a) if the situs address of the residential property is the same as  
702 any one of the following:

703 (i) the mailing address of the residential property owner or the tenant of the residential  
704 property;

705 (ii) the address listed on the:

706 (A) residential property owner's driver license; or

707 (B) tenant of the residential property's driver license; or

708 (iii) the address listed on the:

709 (A) residential property owner's voter registration; or

710 (B) tenant of the residential property's voter registration.

711 (c) After an ownership interest in residential property changes, the county assessor  
712 shall:

713 (i) notify the owner of the residential property that the owner is required to submit a

714 written declaration described in Subsection (8)(d) within 90 days after the day on which the  
715 owner receives notice under this Subsection (8)(c); and

716 (ii) provide the owner of the residential property with the form described in Subsection  
717 (8)(e) to make the written declaration described in Subsection (8)(d).

718 (d) An owner of residential property that receives a notice described in Subsection  
719 (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury  
720 certifying the information contained in the form provided in Subsection (8)(e).

721 (e) The written declaration required by Subsection (8)(d) shall be:

722 (i) signed by the owner of the residential property; and

723 (ii) in substantially the following form:

724 "Residential Property Declaration

725 This form must be submitted to the County Assessor's office where your new residential  
726 property is located within 90 days of receipt. Failure to do so will result in the county assessor  
727 taking action that could result in the withdrawal of the primary residential exemption from your  
728 residential property.

729 Residential Property Owner Information

730 Name(s): \_\_\_\_\_

731 Home Phone: \_\_\_\_\_

732 Work Phone: \_\_\_\_\_

733 Mailing Address: \_\_\_\_\_

734 Residential Property Information

735 Physical Address: \_\_\_\_\_

736 Certification

737 1. Is this property used as a primary residential property or part-year residential  
738 property for you or another person?

739 "Part-year residential property" means owned property that is not residential property on  
740 January 1 of a calendar year but becomes residential property after January 1 of the calendar  
741 year.

742 Yes No

743 2. Will this primary residential property or part-year residential property be occupied  
744 for 183 or more consecutive calendar days by the owner or another person?

745 A part-year residential property occupied for 183 or more consecutive calendar days in  
746 a calendar year by the owner(s) or a tenant is eligible for the exemption.

747 Yes No

748 If a property owner or a property owner's spouse claims a residential exemption under  
749 Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the  
750 property owner or the property owner's spouse, that claim of a residential exemption creates a  
751 rebuttable presumption that the property owner and the property owner's spouse have domicile  
752 in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the  
753 residential property is the primary residence of a tenant of the property owner or the property  
754 owner's spouse.

755 Signature

756 [~~This form must be signed by all owners of the property.~~]

757 Under penalties of perjury, I declare to the best of my knowledge and belief, this  
758 declaration and accompanying pages are true, correct, and complete.

759 \_\_\_\_\_(Owner signature) \_\_\_\_\_Date (mm/dd/yyyy)  
760 \_\_\_\_\_(Owner printed name)"

761 (f) For purposes of a written declaration described in this Subsection (8), a county may  
762 not request information from a property owner beyond the information described in the form  
763 provided in Subsection (8)(e).

764 (g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county  
765 determines that the property has been incorrectly qualified or disqualified to receive a  
766 residential exemption, the county shall:

767 (A) redetermine the property's qualification to receive a residential exemption; and

768 (B) notify the claimant of the redetermination and its reason for the redetermination.

769 (ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed  
770 within 30 days after the notice required by Subsection (8)(g)(i)(B).

771 (h) (i) If a residential property owner fails to file a written declaration required by  
772 Subsection (8)(d), the county assessor shall mail to the owner of the residential property a  
773 notice that:

774 (A) the property owner failed to file a written declaration as required by Subsection  
775 (8)(d); and

776 (B) the property owner will no longer qualify to receive the residential exemption  
777 authorized under Section 59-2-103 for the property that is the subject of the written declaration  
778 if the property owner does not file the written declaration required by Subsection (8)(d) within  
779 30 days after the day on which the county assessor mails the notice under this Subsection  
780 (8)(h)(i).

781 (ii) If a property owner fails to file a written declaration required by Subsection (8)(d)  
782 after receiving the notice described in Subsection (8)(h)(i), the property owner no longer  
783 qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar  
784 year for the property that is the subject of the written declaration.

785 (iii) A property owner that is disqualified to receive the residential exemption under  
786 Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether  
787 the owner is eligible to receive the residential exemption.

788 (i) The requirements of this Subsection (8) do not apply to a county assessor in a  
789 county that has, for the five calendar years prior to 2019, had in place and enforced an  
790 ordinance described in Subsection (1).

791 Section 7. Section **59-2-1602** is amended to read:

792 **59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy --**  
793 **Additional county levy.**

794 (1) (a) There is created an agency fund known as the "Property Tax Valuation Agency  
795 Fund."

796 (b) The fund consists of:

797 (i) deposits made and penalties received under Subsection (3); and

798 (ii) interest on money deposited into the fund.

799 (c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed  
800 and used as provided in Section 59-2-1603.

801 (2) (a) Each county shall annually impose a multicounty assessing and collecting levy  
802 as provided in this Subsection (2).

803 (b) The tax rate of the multicounty assessing and collecting levy is:

804 (i) for a calendar year beginning on or after January 1, 2020, and before January 1,  
805 2025, .000012; and

806 (ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy.

807 (c) The state treasurer shall allocate revenue collected from the multicounty assessing  
808 and collecting levy as follows:

809 (i) 18% of the revenue collected [~~from the base rate~~] shall be deposited into the  
810 Property Tax Valuation Agency Fund, up to \$500,000 annually; and

811 (ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected  
812 from the multicounty assessing and collecting levy shall be deposited into the Multicounty  
813 Appraisal Trust.

814 (3) (a) The multicounty assessing and collecting levy imposed under Subsection (2)  
815 shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

816 (b) The multicounty assessing and collecting levy is:

817 (i) exempt from Sections 17C-1-403 through 17C-1-406;

818 (ii) in addition to and exempt from the maximum levies allowable under Section  
819 59-2-908; and

820 (iii) exempt from the notice and public hearing requirements of Section 59-2-919.

821 (c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected  
822 from the multicounty assessing and collecting levy.

823 (ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later  
824 than the tenth day of the month following the end of the quarter in which the revenue is  
825 collected.

826 (iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day  
827 of the month following the end of the quarter in which the revenue is collected, the county shall  
828 pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

829 (d) The state treasurer shall allocate the penalties received under this Subsection (3) in  
830 the same manner as revenue is allocated under Subsection (2)(c).

831 (4) (a) A county may levy a county additional property tax in accordance with this  
832 Subsection (4).

833 (b) The county additional property tax:

834 (i) shall be separately stated on the tax notice as a county assessing and collecting levy;

835 (ii) may not be incorporated into the rate of any other levy;

836 (iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

837 (iv) is in addition to and exempt from the maximum levies allowable under Section

838 59-2-908.

839 (c) Revenue collected from the county additional property tax shall be used to:

840 (i) promote the accurate valuation and uniform assessment levels of property as  
841 required by Section 59-2-103;

842 (ii) promote the efficient administration of the property tax system, including the costs  
843 of assessment, collection, and distribution of property taxes;

844 (iii) fund state mandated actions to meet legislative mandates or judicial or  
845 administrative orders that relate to promoting:

846 (A) the accurate valuation of property; and

847 (B) the establishment and maintenance of uniform assessment levels within and among  
848 counties; and

849 (iv) establish reappraisal programs that:

850 (A) are adopted by a resolution or ordinance of the county legislative body; and

851 (B) conform to rules the commission makes in accordance with Title 63G, Chapter 3,  
852 Utah Administrative Rulemaking Act.

853 Section 8. Section **59-7-118** is amended to read:

854 **59-7-118. Section 965, Internal Revenue Code -- Installment payments.**

855 (1) Subject to the other provisions of this section, a corporation may pay in  
856 installments the tax owed under this chapter on deferred foreign income described in Section  
857 965, Internal Revenue Code.

858 (2) Subsection (1) applies:

859 (a) to a corporation that:

860 (i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

861 (ii) apportions deferred foreign income described in Section 965, Internal Revenue  
862 Code, to this state; and

863 (b) for a tax year in which a corporation makes an election under Section 965(h),  
864 Internal Revenue Code, for purposes of the corporation's federal income tax.

865 (3) (a) Except as provided in Subsection (3)(b), the same provisions that apply to an  
866 election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an  
867 installment payment made under this section.

868 (b) A corporation shall make:

869 (i) the first installment under this section on or before the due date~~[, including any~~  
870 ~~extension,]~~ of the tax return filed under this chapter for the first taxable year in which the  
871 corporation reports deferred foreign income described in Section 965, Internal Revenue Code;  
872 and

873 (ii) a subsequent installment on or before the due date~~[, including any extension,]~~ of  
874 the tax return filed under this chapter in each of the following seven years.

875 Section 9. Section **59-7-159** is amended to read:

876 **59-7-159. Review of credits allowed under this chapter.**

877 (1) As used in this section, "committee" means the Revenue and Taxation Interim  
878 Committee.

879 (2) (a) The committee shall review the tax credits described in this chapter as provided  
880 in Subsection (3) and make recommendations concerning whether the tax credits should be  
881 continued, modified, or repealed.

882 (b) In conducting the review required under Subsection (2)(a), the committee shall:

883 (i) schedule time on at least one committee agenda to conduct the review;

884 (ii) invite state agencies, individuals, and organizations concerned with the tax credit  
885 under review to provide testimony;

886 (iii) (A) invite the Governor's Office of Economic Development to present a summary  
887 and analysis of the information for each tax credit regarding which the Governor's Office of  
888 Economic Development is required to make a report under this chapter; and

889 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and  
890 analysis of the information for each tax credit regarding which the Office of the Legislative  
891 Fiscal Analyst is required to make a report under this chapter;

892 (iv) ensure that the committee's recommendations described in this section include an  
893 evaluation of:

894 (A) the cost of the tax credit to the state;

895 (B) the purpose and effectiveness of the tax credit; and

896 (C) the extent to which the state benefits from the tax credit; and

897 (v) undertake other review efforts as determined by the committee chairs or as  
898 otherwise required by law.

899 (3) (a) On or before November 30, 2017, and every three years after 2017, the

900 committee shall conduct the review required under Subsection (2) of the tax credits allowed  
 901 under the following sections:

- 902 (i) Section 59-7-601;
- 903 (ii) Section 59-7-607;
- 904 (iii) Section 59-7-612;
- 905 (iv) Section 59-7-614.1; and
- 906 (v) Section 59-7-614.5.

907 (b) On or before November 30, 2018, and every three years after 2018, the committee  
 908 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
 909 following sections:

- 910 (i) Section 59-7-609;
- 911 (ii) Section 59-7-614.2;
- 912 (iii) Section 59-7-614.10;
- 913 (iv) Section 59-7-619;
- 914 (v) Section 59-7-620; and
- 915 (vi) Section 59-7-624.

916 (c) On or before November 30, 2019, and every three years after 2019, the committee  
 917 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
 918 following sections:

- 919 (i) Section 59-7-610;
- 920 (ii) Section 59-7-614; and
- 921 (iii) Section 59-7-614.7[; ~~and~~].
- 922 [~~(iv) Section 59-7-618.~~]

923 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
 924 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
 925 2017.

926 (ii) The committee shall complete a review described in this Subsection (3)(d) three  
 927 years after the effective date of the tax credit and every three years after the initial review date.

928 Section 10. Section **59-7-504** is amended to read:

929 **59-7-504. Estimated tax payments -- Penalty -- Waiver.**

930 (1) Except as [~~otherwise provided in this section, each~~] provided in Subsection (2), a

931 corporation subject to taxation under this chapter [~~having~~] that has a tax liability of \$3,000 or  
 932 more in either the current tax year [~~, or which had a tax liability of \$3,000 or more in the~~  
 933 ~~previous tax year, shall make payments of estimated tax at the same time and using any method~~  
 934 ~~provided under Section 6655, Internal Revenue Code]~~ or the previous tax year shall make a  
 935 payment of an estimated tax on or before the day on which the corporation is required to make  
 936 a payment of an estimated tax for the same time period to the federal government.

937 [~~(2) The following are modifications or exceptions to the provisions of Section 6655,~~  
 938 ~~Internal Revenue Code:]~~

939 (2) The provisions of Section 6655, Internal Revenue Code, shall govern the payment  
 940 described in Subsection (1), except that:

941 (a) for the first year a corporation is required to file a return in Utah, that corporation is  
 942 not subject to Subsection (1) if [it] the corporation makes a payment on or before the due date  
 943 of the return, without extensions, equal to or greater than the minimum tax required under  
 944 Section 59-7-104 or 59-7-201;

945 (b) the applicable percentage of the required annual payment, as defined in Section  
 946 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal  
 947 installments, and those estimated tax payments based on the current year tax liability shall be:

948	Installment	Percentage
949	1st	22.5
950	2nd	45.0
951	3rd	67.5
952	4th	90.0

953 (c) a large [corporations] corporation shall be treated as any other corporation for  
 954 purposes of this section; [~~and~~]

955 (d) if a taxpayer elects a different annualization period than the one used for federal  
 956 purposes, the taxpayer shall make an election with the [~~Tax Commission~~] commission at the  
 957 same time as provided under Section 6655, Internal Revenue Code[~~:-~~]; and

958 (e) the due date shall be superseded by the due date for federal estimated payments if  
 959 modified by other federal action.

960 (3) A penalty shall be added as provided in Section 59-1-401 for any quarterly

961 estimated tax payment [~~which~~] that is not made in accordance with this section.

962 (4) There shall be no interest added to any estimated tax payments subject to a penalty  
963 under this section.

964 Section 11. Section **59-7-505** is amended to read:

965 **59-7-505. Returns required -- When due -- Extension of time -- Exemption from**  
966 **filing.**

967 (1) Each corporation subject to taxation under this chapter shall make a return, except  
968 that a group of corporations filing a combined report under Part 4, Combined Reporting, shall  
969 file one combined report.

970 (a) The return shall be signed by a responsible officer of the corporation, the signature  
971 of whom need not be notarized but when signed shall be considered as made under oath.

972 (b) (i) In cases where receivers, trustees in bankruptcy, or assignees are operating the  
973 property or business of corporations, those receivers, trustees, or assignees shall make returns  
974 for such corporations in the same manner and form as corporations are required to make  
975 returns.

976 (ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees  
977 shall be collected in the same manner as if collected from the corporations of whose business  
978 or property they have custody and control.

979 [~~(2) Returns shall be made on or before the 15th day of the fourth month following the~~  
980 ~~close of the taxable year.~~]

981 (2) (a) A corporation required to make a return under this chapter shall make a return  
982 on or before the later of:

983 (i) the 15th day of the fourth month following the close of the taxable year; or

984 (ii) the day on which the corporation is required to file a federal income tax return.

985 (b) Interest accrues from the day on which a return is due under this Subsection (2).

986 (3) (a) The commission shall allow a taxpayer an extension of time for filing [~~returns~~] a  
987 return.

988 [~~(b) The extension under Subsection (3)(a) may not exceed six months.~~]

989 (b) Except as provided in Subsection (3)(c), the extension described in Subsection  
990 (3)(a) may be for up to six months.

991 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before

992 December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the  
993 time period that ends on the last day of the extension to file the taxpayer's federal income tax  
994 return.

995 (4) Each return shall be made to the commission.

996 (5) A corporation incorporated or qualified to do business in this state [~~prior to~~] before  
997 January 1, 1973, is not liable for filing a return or paying tax measured by income for the  
998 taxable year in which [~~it~~] the corporation legally terminates [~~its~~] the corporation's existence.

999 (6) A corporation incorporated or qualified to do business or [~~which had its~~] that had  
1000 the corporation's authority to do business reinstated on or after January 1, 1973, shall file a  
1001 return and pay the tax measured by income for each period during which [~~it~~] the corporation  
1002 had the right to do business in this state, and the return shall be filed and the tax paid within  
1003 three months and 15 days after the close of this period.

1004 (7) If a corporation terminates [~~its~~] the corporation's existence under Section  
1005 16-10a-1401, [~~no returns are required to be filed if a statement is furnished~~] the corporation is  
1006 not required to file a return if the corporation provides a statement to the commission that no  
1007 business has been conducted during that period.

1008 (8) (a) A corporation commencing to do business in Utah after qualification or  
1009 incorporation with the Division of Corporations and Commercial Code is not required to file a  
1010 return for the period commencing with the date of incorporation or qualification and ending on  
1011 the last day of the same month, if that corporation was not doing business in and received no  
1012 income from sources in the state during such period.

1013 (b) In determining whether a corporation comes within the provisions of this chapter,  
1014 affidavits on behalf of the corporation that it did no business in and received no income from  
1015 sources in Utah during such period shall be filed with the commission.

1016 Section 12. Section **59-7-507** is amended to read:

1017 **59-7-507. Payment of tax.**

1018 (1) (a) If [~~quarterly estimated payments are~~] an estimated payment is not made as  
1019 provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later  
1020 than the [~~original~~] due date of the return described in Subsection 59-7-505(2).

1021 [~~(b) If an extension of time is necessary for filing a return, as provided in Subsection~~  
1022 ~~59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of~~

1023 ~~the return in an amount equal to the lesser of:]~~

1024 (b) If a taxpayer needs an extension of time to file a return, as provided in Section  
 1025 59-7-505 or 59-7-803, a taxpayer shall pay, no later than the due date of the return described in  
 1026 Subsection 59-7-505(2), an amount equal to the lesser of:

1027 (i) ~~[The]~~ the greater of:

1028 (A) 90% of the total tax reported on the return for the current taxable year; or

1029 (B) 100% of the minimum tax described in Section 59-7-104; or

1030 (ii) 100% of the total tax liability for the taxable year immediately preceding the  
 1031 current taxable year.

1032 (c) If payment is not made as provided in Subsection (1)(b), the commission shall add  
 1033 an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of  
 1034 extension.

1035 (2) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or  
 1036 before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the  
 1037 amount determined as the tax of the taxpayer, or any part of that amount, for the time period  
 1038 that ends on the last day of the extension to pay the taxpayer's federal income tax.

1039 ~~[(2)(a) At]~~ (b) (i) For a taxable year beginning on or after January 1, 2020, at the  
 1040 request of the taxpayer, the commission may extend the time for payment of the amount  
 1041 determined as the tax by the taxpayer, or any part of that amount, for a period not to exceed six  
 1042 months from the date prescribed for the payment of the tax.

1043 ~~[(b) For purposes of Subsection (2)(a), the amount in respect of which the extension is~~  
 1044 ~~granted shall be paid on or before the date of the expiration of the period of the extension.]~~

1045 (ii) For purposes of Subsection (2)(b)(i), the taxpayer shall pay the amount for which  
 1046 the extension is granted on or before the day on which the period of the extension expires.

1047 Section 13. Section **59-7-610** is amended to read:

1048 **59-7-610. Recycling market development zones tax credits.**

1049 (1) Subject to other provisions of this section, a taxpayer that is a business operating in  
 1050 a recycling market development zone as defined in Section 19-13-102 may claim the following  
 1051 nonrefundable tax credits:

1052 (a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection  
 1053 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

- 1054 (i) commercial composting; or  
1055 (ii) manufacturing facilities or plant units that:  
1056 (A) manufacture, process, compound, or produce recycled items of tangible personal  
1057 property for sale; or  
1058 (B) reduce or reuse postconsumer waste material; and  
1059 (b) a tax credit equal to the lesser of:  
1060 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test  
1061 inventory, and utilities made by the taxpayer for establishing and operating recycling or  
1062 composting technology in the state; and  
1063 (ii) \$2,000.  
1064 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive  
1065 from the Department of Environmental Quality a written certification, on a form approved by  
1066 the commission, that includes:  
1067 (i) a statement that the taxpayer is operating a business within the boundaries of a  
1068 recycling market development zone;  
1069 (ii) for a claim of the tax credit described in Subsection (1)(a):  
1070 (A) the type of the machinery and equipment that the taxpayer purchased;  
1071 (B) the date that the taxpayer purchased the machinery and equipment;  
1072 (C) the purchase price for the machinery and equipment;  
1073 (D) the total purchase price for all machinery and equipment for which the taxpayer is  
1074 claiming a tax credit;  
1075 (E) a statement that the machinery and equipment are integral to the composting or  
1076 recycling process; and  
1077 (F) the amount of the taxpayer's tax credit; and  
1078 (iii) for a claim of the tax credit described in Subsection (1)(b):  
1079 (A) the type of net expenditure that the taxpayer made to a third party;  
1080 (B) the date that the taxpayer made the payment to a third party;  
1081 (C) the amount that the taxpayer paid to each third party;  
1082 (D) the total amount that the taxpayer paid to all third parties;  
1083 (E) a statement that the net expenditures support the establishment and operation of  
1084 recycling or composting technology in the state; and

1085 (F) the amount of the taxpayer's tax credit.

1086 (b) (i) The Department of Environmental Quality shall provide a taxpayer seeking to  
1087 claim a tax credit under Subsection (1) with a copy of the written certification.

1088 (ii) The taxpayer shall retain a copy of the written certification for the same period of  
1089 time that a person is required to keep books and records under Section 59-1-1406.

1090 (c) The Department of Environmental Quality shall submit to the commission an  
1091 electronic list that includes:

1092 (i) the name and identifying information of each taxpayer to which the Department of  
1093 Environmental Quality issues a written certification; and

1094 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.

1095 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or  
1096 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is  
1097 calculated:

1098 (a) for the taxable year in which the taxpayer made the purchases or payments;

1099 (b) before any other tax credits the taxpayer may claim for the taxable year; and

1100 (c) before the taxpayer claims a tax credit authorized by this section.

1101 (4) The commission shall make rules governing what information a taxpayer shall file  
1102 with the commission to verify the entitlement to and amount of a tax credit.

1103 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to  
1104 the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the  
1105 taxpayer does not use for the taxable year.

1106 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection  
1107 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under  
1108 Section 63N-2-213.

1109 (7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable  
1110 year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

1111 (8) A taxpayer may not claim or carry forward a tax credit under this section for a  
1112 taxable year during which the taxpayer claims the targeted business income tax credit under  
1113 Section 59-7-624.

1114 Section 14. Section **59-7-620** is amended to read:

1115 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**

1116 **Life Experience Program account.**

1117 (1) As used in this section:

1118 (a) "Account" means an account in a qualified ABLE program where the designated  
1119 beneficiary of the account is a resident of this state.

1120 (b) "Contributor" means a corporation that:

1121 (i) makes a contribution to an account; and

1122 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1123 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.  
1124 529A.

1125 (d) "Qualified ABLE program" means the same as that term is defined in Section  
1126 35A-12-102.

1127 (2) For a taxable year beginning on or after January 1, 2020, but beginning on or before  
1128 December 31, 2020, a contributor to an account may claim a nonrefundable tax credit as  
1129 provided in this section.

1130 (3) Subject to the other provisions of this section, the tax credit is equal to the product  
1131 of:

1132 (a) [~~5%~~] the percentage listed in Subsection 59-7-104(2); and

1133 (b) the total amount of contributions:

1134 (i) the contributor makes for the taxable year; and

1135 (ii) for which the contributor receives a statement from the qualified ABLE program  
1136 itemizing the contributions.

1137 (4) A contributor may not claim a tax credit under this section:

1138 (a) for an amount of excess contribution to an account that is returned to the  
1139 contributor; or

1140 (b) with respect to an amount the contributor deducts on a federal income tax return.

1141 (5) A tax credit under this section may not be carried forward or carried back.

1142 Section 15. Section **59-10-103** is amended to read:

1143 **59-10-103. Definitions.**

1144 (1) As used in this chapter:

1145 (a) (i) "Adjusted gross income":

1146 (A) for a resident or nonresident individual, means the same as that term is defined in

1147 Section 62, Internal Revenue Code; or  
1148 (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),  
1149 Internal Revenue Code.

1150 (ii) "Adjusted gross income" does not include:  
1151 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)  
1152 (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a  
1153 similar paycheck protection loan that is authorized by the federal government, provided in  
1154 response to COVID-19, forgiven if the borrower meets the expenditure requirements, and  
1155 exempt from federal income tax, to the extent that a deduction for the expenditures paid with  
1156 the loan is disallowed; or  
1157 (B) an amount that an individual receives in accordance with Section 6428, Internal  
1158 Revenue Code, or an amount that an individual receives that is authorized by the federal  
1159 government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in  
1160 advance of the filing of the individual's 2020 federal income tax return, and exempt from  
1161 federal income tax.

1162 (b) "Corporation" includes:  
1163 (i) an association;  
1164 (ii) a joint stock company; and  
1165 (iii) an insurance company.

1166 (c) "COVID-19" means:  
1167 (i) the severe acute respiratory syndrome coronavirus 2; or  
1168 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

1169 (d) "Distributable net income" means the same as that term is defined in Section 643,  
1170 Internal Revenue Code.

1171 (e) "Employee" means the same as that term is defined in Section 59-10-401.  
1172 (f) "Employer" means the same as that term is defined in Section 59-10-401.  
1173 (g) "Federal taxable income":  
1174 (i) for a resident or nonresident individual, means taxable income as defined by Section  
1175 63, Internal Revenue Code; or  
1176 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and  
1177 (b), Internal Revenue Code.

1178 (h) "Fiduciary" means:

1179 (i) a guardian;

1180 (ii) a trustee;

1181 (iii) an executor;

1182 (iv) an administrator;

1183 (v) a receiver;

1184 (vi) a conservator; or

1185 (vii) any person acting in any fiduciary capacity for any individual.

1186 (i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R.

1187 Sec. 1.170A-6(c)(2).

1188 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the

1189 homesteaded land that was held to have been diminished from the Uintah and Ouray

1190 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

1191 (k) "Individual" means a natural person and includes aliens and minors.

1192 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all

1193 or part of the trust without the consent of a person who has a substantial beneficial interest in

1194 the trust and the interest would be adversely affected by the exercise of the settlor's power to

1195 revoke or terminate all or part of the trust.

1196 (m) "Military service" means the same as that term is defined in Pub. L. No. 108-189,

1197 Sec. 101.

1198 (n) "Nonresident individual" means an individual who is not a resident of this state.

1199 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a

1200 resident estate or trust.

1201 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other

1202 unincorporated organization:

1203 (A) through or by means of which any business, financial operation, or venture is

1204 carried on; and

1205 (B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.

1206 (ii) "Partnership" does not include any organization not included under the definition of

1207 "partnership" in Section 761, Internal Revenue Code.

1208 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or

1209 organization described in Subsection (1)(p)(i).

1210 (q) "Pass-through entity" means the same as that term is defined in Section

1211 59-10-1402.

1212 (r) "Pass-through entity taxpayer" means the same as that term is defined in Section

1213 59-10-1402.

1214 ~~[(q)]~~ (s) "Qualified nongrantor charitable lead trust" means a trust:

1215 (i) that is irrevocable;

1216 (ii) that has a trust term measured by:

1217 (A) a fixed term of years; or

1218 (B) the life of a person living on the day on which the trust is created;

1219 (iii) under which:

1220 (A) a portion of the value of the trust assets is distributed during the trust term:

1221 (I) to an organization described in Section 170(c), Internal Revenue Code; and

1222 (II) as a guaranteed annuity interest or a unitrust interest; and

1223 (B) assets remaining in the trust at the termination of the trust term are distributed to a

1224 beneficiary:

1225 (I) designated in the trust; and

1226 (II) that is not an organization described in Section 170(c), Internal Revenue Code;

1227 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue

1228 Code; and

1229 (v) under which the grantor of the trust is not treated as the owner of any portion of the

1230 trust for federal income tax purposes.

1231 ~~[(r)]~~ (t) "Resident individual" means an individual who is domiciled in this state for

1232 any period of time during the taxable year, but only for the duration of the period during which

1233 the individual is domiciled in this state.

1234 ~~[(s)]~~ (u) "Resident estate" or "resident trust" means the same as that term is defined in

1235 Section 75-7-103.

1236 ~~[(t)]~~ (v) "Servicemember" means the same as that term is defined in Pub. L. No.

1237 108-189, Sec. 101.

1238 ~~[(u)]~~ (w) "State income tax percentage for a nonresident estate or trust" means a

1239 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year

1240 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year  
1241 after making the adjustments required by:

- 1242 (i) Section 59-10-202;
- 1243 (ii) Section 59-10-207;
- 1244 (iii) Section 59-10-209.1; or
- 1245 (iv) Section 59-10-210.

1246 ~~(v)~~ (x) "State income tax percentage for a nonresident individual" means a percentage  
1247 equal to a nonresident individual's state taxable income for the taxable year divided by the  
1248 difference between:

1249 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross  
1250 income for that taxable year, after making the:

- 1251 (A) additions and subtractions required by Section 59-10-114; and
- 1252 (B) adjustments required by Section 59-10-115; and

1253 (ii) if the nonresident individual described in Subsection (1)~~(v)~~(x)(i) is a  
1254 servicemember, the compensation the servicemember receives for military service if the  
1255 servicemember is serving in compliance with military orders.

1256 ~~(w)~~ (y) "State income tax percentage for a part-year resident individual" means, for a  
1257 taxable year, a fraction:

1258 (i) the numerator of which is the sum of:

1259 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the  
1260 part-year resident individual is a resident, the part-year resident individual's total adjusted gross  
1261 income for that time period, after making the:

1262 (I) additions and subtractions required by Section 59-10-114; and

1263 (II) adjustments required by Section 59-10-115; and

1264 (B) for the time period during the taxable year that the part-year resident individual is a  
1265 nonresident, an amount calculated by:

1266 (I) determining the part-year resident individual's adjusted gross income for that time  
1267 period, after making the:

1268 (Aa) additions and subtractions required by Section 59-10-114; and

1269 (Ab) adjustments required by Section 59-10-115; and

1270 (II) calculating the portion of the amount determined under Subsection

1271 (1)[(w)](y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117;  
 1272 and

1273 (ii) the denominator of which is the difference between:

1274 (A) the part-year resident individual's total adjusted gross income for that taxable year,  
 1275 after making the:

1276 (I) additions and subtractions required by Section 59-10-114; and

1277 (II) adjustments required by Section 59-10-115; and

1278 (B) if the part-year resident individual is a servicemember, any compensation the  
 1279 servicemember receives for military service during the portion of the taxable year that the  
 1280 servicemember is a nonresident if the servicemember is serving in compliance with military  
 1281 orders.

1282 [(x)] (z) "Taxable income" or "state taxable income":

1283 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident  
 1284 individual's adjusted gross income after making the:

1285 (A) additions and subtractions required by Section 59-10-114; and

1286 (B) adjustments required by Section 59-10-115;

1287 (ii) for a nonresident individual, is an amount calculated by:

1288 (A) determining the nonresident individual's adjusted gross income for the taxable  
 1289 year, after making the:

1290 (I) additions and subtractions required by Section 59-10-114; and

1291 (II) adjustments required by Section 59-10-115; and

1292 (B) calculating the portion of the amount determined under Subsection

1293 (1)[(x)](z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

1294 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

1295 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

1296 [(y)] (aa) "Taxpayer" means any [~~individual, estate, trust, or beneficiary of an estate or~~  
 1297 ~~trust,~~] of the following that has income subject in whole or part to the tax imposed by this  
 1298 chapter[-]:

1299 (i) an individual;

1300 (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through  
 1301 entity or a pass-through entity taxpayer;

- 1302            (iii) a pass-through entity; or
- 1303            (iv) a pass-through entity taxpayer.
- 1304            ~~(z)~~ (bb) "Trust term" means a time period:
- 1305            (i) beginning on the day on which a qualified nongrantor charitable lead trust is
- 1306 created; and
- 1307            (ii) ending on the day on which the qualified nongrantor charitable lead trust described
- 1308 in Subsection (1)~~(z)~~(bb)(i) terminates.
- 1309            ~~(aa)~~ (cc) "Uintah and Ouray Reservation" means the lands recognized as being
- 1310 included within the Uintah and Ouray Reservation in:
- 1311            (i) Hagen v. Utah, 510 U.S. 399 (1994); and
- 1312            (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
- 1313            ~~(bb)~~ (dd) "Unadjusted income" means an amount equal to the difference between:
- 1314            (i) the total income required to be reported by a resident or nonresident estate or trust
- 1315 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts
- 1316 for the taxable year; and
- 1317            (ii) the sum of the following:
- 1318            (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
- 1319            (I) for administering the resident or nonresident estate or trust; and
- 1320            (II) that the resident or nonresident estate or trust deducts as allowed on the resident or
- 1321 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
- 1322 year;
- 1323            (B) the income distribution deduction that a resident or nonresident estate or trust
- 1324 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or
- 1325 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
- 1326 year;
- 1327            (C) the amount that a resident or nonresident estate or trust deducts as a deduction for
- 1328 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as
- 1329 allowed on the resident or nonresident estate's or trust's federal income tax return for estates
- 1330 and trusts for the taxable year; and
- 1331            (D) the amount that a resident or nonresident estate or trust deducts as a personal
- 1332 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or

1333 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable  
1334 year.

1335 ~~[(cc)]~~ (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec.  
1336 1.170A-6(c)(2).

1337 ~~[(dd)]~~ (ff) "Ute tribal member" means an individual who is enrolled as a member of the  
1338 Ute Indian Tribe of the Uintah and Ouray Reservation.

1339 ~~[(ee)]~~ (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray  
1340 Reservation.

1341 ~~[(ff)]~~ (hh) "Wages" means the same as that term is defined in Section 59-10-401.

1342 (2) (a) Any term used in this chapter has the same meaning as when used in  
1343 comparable context in the laws of the United States relating to federal income taxes unless a  
1344 different meaning is clearly required.

1345 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall  
1346 mean the Internal Revenue Code or other provisions of the laws of the United States relating to  
1347 federal income taxes that are in effect for the taxable year.

1348 (c) Any reference to a specific section of the Internal Revenue Code or other provision  
1349 of the laws of the United States relating to federal income taxes shall include any  
1350 corresponding or comparable provisions of the Internal Revenue Code as amended,  
1351 redesignated, or reenacted.

1352 Section 16. Section **59-10-114** is amended to read:

1353 **59-10-114. Additions to and subtractions from adjusted gross income of an**  
1354 **individual.**

1355 (1) There shall be added to adjusted gross income of a resident or nonresident  
1356 individual:

1357 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income  
1358 on the taxpayer's federal individual income tax return for the taxable year;

1359 (b) the amount of a child's income calculated under Subsection (4) that:

1360 (i) a parent elects to report on the parent's federal individual income tax return for the  
1361 taxable year; and

1362 (ii) the parent does not include in adjusted gross income on the parent's federal  
1363 individual income tax return for the taxable year;

1364 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for  
1365 the taxable year if:

1366 (A) the resident or nonresident individual does not deduct the amounts on the resident  
1367 or nonresident individual's federal individual income tax return under Section 220, Internal  
1368 Revenue Code;

1369 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

1370 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a  
1371 return the resident or nonresident individual files under this chapter;

1372 (ii) a disbursement required to be added to adjusted gross income in accordance with  
1373 Subsection 31A-32a-105(3); or

1374 (iii) an amount required to be added to adjusted gross income in accordance with  
1375 Subsection 31A-32a-105(5)(c);

1376 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,  
1377 from the account of a resident or nonresident individual who is an account owner as defined in  
1378 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount  
1379 withdrawn from the account of the resident or nonresident individual who is the account  
1380 owner:

1381 (i) is not expended for:

1382 (A) higher education costs as defined in Section 53B-8a-102.5; or

1383 (B) a payment or distribution that qualifies as an exception to the additional tax for  
1384 distributions not used for educational expenses provided in Sections 529(c) and 530(d),  
1385 Internal Revenue Code; and

1386 (ii) is:

1387 (A) subtracted by the resident or nonresident individual:

1388 (I) who is the account owner; and

1389 (II) on the resident or nonresident individual's return filed under this chapter for a  
1390 taxable year beginning on or before December 31, 2007; or

1391 (B) used as the basis for the resident or nonresident individual who is the account  
1392 owner to claim a tax credit under Section 59-10-1017;

1393 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of  
1394 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other

1395 evidences of indebtedness:

1396 (i) issued by one or more of the following entities:

1397 (A) a state other than this state;

1398 (B) the District of Columbia;

1399 (C) a political subdivision of a state other than this state; or

1400 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)

1401 through (C); and

1402 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's

1403 federal income tax return for the taxable year;

1404 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a

1405 resident trust of income that was taxed at the trust level for federal tax purposes, but was

1406 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

1407 (g) any distribution received by a resident beneficiary of a nonresident trust of

1408 undistributed distributable net income realized by the trust on or after January 1, 2004, if that

1409 undistributed distributable net income was taxed at the trust level for federal tax purposes, but

1410 was not taxed at the trust level by any state, with undistributed distributable net income

1411 considered to be distributed from the most recently accumulated undistributed distributable net

1412 income; and

1413 (h) any adoption expense:

1414 (i) for which a resident or nonresident individual receives reimbursement from another

1415 person; and

1416 (ii) to the extent to which the resident or nonresident individual subtracts that adoption

1417 expense:

1418 (A) on a return filed under this chapter for a taxable year beginning on or before

1419 December 31, 2007; or

1420 (B) from federal taxable income on a federal individual income tax return.

1421 (2) There shall be subtracted from adjusted gross income of a resident or nonresident

1422 individual:

1423 (a) the difference between:

1424 (i) the interest or a dividend on an obligation or security of the United States or an

1425 authority, commission, instrumentality, or possession of the United States, to the extent that

- 1426 interest or dividend is:
- 1427 (A) included in adjusted gross income for federal income tax purposes for the taxable  
1428 year; and
- 1429 (B) exempt from state income taxes under the laws of the United States; and
- 1430 (ii) any interest on indebtedness incurred or continued to purchase or carry the  
1431 obligation or security described in Subsection (2)(a)(i);
- 1432 (b) ~~[for taxable years beginning on or after January 1, 2000,]~~ if the conditions of  
1433 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:
- 1434 (i) during a time period that the Ute tribal member resides on homesteaded land  
1435 diminished from the Uintah and Ouray Reservation; and
- 1436 (ii) from a source within the Uintah and Ouray Reservation;
- 1437 (c) an amount received by a resident or nonresident individual or distribution received  
1438 by a resident or nonresident beneficiary of a resident trust:
- 1439 (i) if that amount or distribution constitutes a refund of taxes imposed by:
- 1440 (A) a state; or
- 1441 (B) the District of Columbia; and
- 1442 (ii) to the extent that amount or distribution is included in adjusted gross income for  
1443 that taxable year on the federal individual income tax return of the resident or nonresident  
1444 individual or resident or nonresident beneficiary of a resident trust;
- 1445 (d) the amount of a railroad retirement benefit:
- 1446 (i) paid:
- 1447 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
1448 seq.;
- 1449 (B) to a resident or nonresident individual; and
- 1450 (C) for the taxable year; and
- 1451 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on  
1452 that resident or nonresident individual's federal individual income tax return for that taxable  
1453 year;
- 1454 (e) an amount:
- 1455 (i) received by an enrolled member of an American Indian tribe; and
- 1456 (ii) to the extent that the state is not authorized or permitted to impose a tax under this

1457 part on that amount in accordance with:

1458 (A) federal law;

1459 (B) a treaty; or

1460 (C) a final decision issued by a court of competent jurisdiction;

1461 (f) an amount received:

1462 (i) for the interest on a bond, note, or other obligation issued by an entity for which

1463 state statute provides an exemption of interest on its bonds from state individual income tax;

1464 (ii) by a resident or nonresident individual;

1465 (iii) for the taxable year; and

1466 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's

1467 federal income tax return for the taxable year;

1468 (g) the amount of all income, including income apportioned to another state, of a

1469 nonmilitary spouse of an active duty military member if:

1470 (i) both the nonmilitary spouse and the active duty military member are nonresident

1471 individuals;

1472 (ii) the active duty military member is stationed in Utah;

1473 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.

1474 4001(a)(2); and

1475 (iv) the income is included in adjusted gross income for federal income tax purposes

1476 for the taxable year;

1477 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before

1478 December 31, 2019, only:

1479 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is

1480 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal

1481 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

1482 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is

1483 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal

1484 Revenue Code, for the taxable year;

1485 (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC

1486 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income

1487 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; ~~and~~

- 1488 (j) for a taxable year beginning on or after January 1, 2020, but beginning on or before  
1489 December 31, 2020, the amount:
- 1490 (i) of a paycheck protection loan similar to a loan forgiven in accordance with 15  
1491 U.S.C. Sec. 636(a)(36) that is:
- 1492 (A) authorized by the federal government;
- 1493 (B) provided in response to COVID-19;
- 1494 (C) forgiven if the borrower meets the expenditure requirements; and
- 1495 (D) subject to federal income tax, to the extent that a deduction for the expenditures  
1496 paid with the loan is disallowed;
- 1497 (ii) that a resident or a nonresident individual receives that is:
- 1498 (A) authorized by the federal government as a tax credit for the 2020 tax year;
- 1499 (B) provided in response to COVID-19;
- 1500 (C) paid in advance of the filing of the individual's 2020 federal income tax return; and
- 1501 (D) subject to federal income tax; and
- 1502 (iii) of any grant funds or forgiven loans that:
- 1503 (A) the resident or nonresident individual receives from the state, a county within the  
1504 state, or a municipality within the state in response to COVID-19;
- 1505 (B) are funded by using federal revenue received by the state, the county, or the  
1506 municipality to respond to COVID-19; and
- 1507 (C) are included in adjusted gross income[-]; and
- 1508 (k) an amount of a distribution from a qualified retirement plan under Section 401(a),  
1509 Internal Revenue Code, if:
- 1510 (i) the amount of the distribution is included in adjusted gross income on the resident  
1511 or nonresident individual's federal individual income tax return for the taxable year; and
- 1512 (ii) for the taxable year when the amount of the distribution was contributed to the  
1513 qualified retirement plan, the amount of the distribution:
- 1514 (A) was not included in adjusted gross income on the resident or nonresident  
1515 individual's federal individual income tax return for the taxable year; and
- 1516 (B) was taxed by another state of the United States, the District of Columbia, or a  
1517 possession of the United States.
- 1518 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

- 1519 (i) the taxpayer is a Ute tribal member; and
- 1520 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
- 1521 requirements of this Subsection (3).
- 1522 (b) The agreement described in Subsection (3)(a):
- 1523 (i) may not:
- 1524 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 1525 (B) provide a subtraction under this section greater than or different from the
- 1526 subtraction described in Subsection (2)(b); or
- 1527 (C) affect the power of the state to establish rates of taxation; and
- 1528 (ii) shall:
- 1529 (A) provide for the implementation of the subtraction described in Subsection (2)(b);
- 1530 (B) be in writing;
- 1531 (C) be signed by:
- 1532 (I) the governor; and
- 1533 (II) the chair of the Business Committee of the Ute tribe;
- 1534 (D) be conditioned on obtaining any approval required by federal law; and
- 1535 (E) state the effective date of the agreement.
- 1536 (c) (i) The governor shall report to the commission by no later than February 1 of each
- 1537 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
- 1538 in effect.
- 1539 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
- 1540 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
- 1541 after the January 1 following the termination of the agreement.
- 1542 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
- 1543 Utah Administrative Rulemaking Act, the commission may make rules:
- 1544 (i) for determining whether income is derived from a source within the Uintah and
- 1545 Ouray Reservation; and
- 1546 (ii) that are substantially similar to how adjusted gross income derived from Utah
- 1547 sources is determined under Section 59-10-117.
- 1548 (4) (a) For purposes of this Subsection (4), "Form 8814" means:
- 1549 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's

- 1550 Interest and Dividends; or
- 1551 (ii) (A) a form designated by the commission in accordance with Subsection
- 1552 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
- 1553 individual income taxes the information contained on 2000 Form 8814 is reported on a form
- 1554 other than Form 8814; and
- 1555 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
- 1556 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
- 1557 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
- 1558 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
- 1559 8814.
- 1560 (b) The amount of a child's income added to adjusted gross income under Subsection
- 1561 (1)(b) is equal to the difference between:
- 1562 (i) the lesser of:
- 1563 (A) the base amount specified on Form 8814; and
- 1564 (B) the sum of the following reported on Form 8814:
- 1565 (I) the child's taxable interest;
- 1566 (II) the child's ordinary dividends; and
- 1567 (III) the child's capital gain distributions; and
- 1568 (ii) the amount not taxed that is specified on Form 8814.
- 1569 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
- 1570 of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not
- 1571 be added to adjusted gross income of a resident or nonresident individual if, as annually
- 1572 determined by the commission:
- 1573 (a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the
- 1574 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
- 1575 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
- 1576 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not
- 1577 impose a tax based on income on any part of the bonds, notes, and other evidences of
- 1578 indebtedness of this state:
- 1579 (i) the entity; or
- 1580 (ii) (A) the state in which the entity is located; or

1581 (B) the District of Columbia, if the entity is located within the District of Columbia.

1582 Section 17. Section **59-10-137** is amended to read:

1583 **59-10-137. Review of credits allowed under this chapter.**

1584 (1) As used in this section, "committee" means the Revenue and Taxation Interim  
1585 Committee.

1586 (2) (a) The committee shall review the tax credits described in this chapter as provided  
1587 in Subsection (3) and make recommendations concerning whether the tax credits should be  
1588 continued, modified, or repealed.

1589 (b) In conducting the review required under Subsection (2)(a), the committee shall:

1590 (i) schedule time on at least one committee agenda to conduct the review;

1591 (ii) invite state agencies, individuals, and organizations concerned with the tax credit  
1592 under review to provide testimony;

1593 (iii) (A) invite the Governor's Office of Economic Development to present a summary  
1594 and analysis of the information for each tax credit regarding which the Governor's Office of  
1595 Economic Development is required to make a report under this chapter; and

1596 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and  
1597 analysis of the information for each tax credit regarding which the Office of the Legislative  
1598 Fiscal Analyst is required to make a report under this chapter;

1599 (iv) ensure that the committee's recommendations described in this section include an  
1600 evaluation of:

1601 (A) the cost of the tax credit to the state;

1602 (B) the purpose and effectiveness of the tax credit; and

1603 (C) the extent to which the state benefits from the tax credit; and

1604 (v) undertake other review efforts as determined by the committee chairs or as  
1605 otherwise required by law.

1606 (3) (a) On or before November 30, 2017, and every three years after 2017, the  
1607 committee shall conduct the review required under Subsection (2) of the tax credits allowed  
1608 under the following sections:

1609 (i) Section 59-10-1004;

1610 (ii) Section 59-10-1010;

1611 (iii) Section 59-10-1015;

1612 (iv) Section 59-10-1025;

1613 (v) Section 59-10-1027;

1614 (vi) Section 59-10-1031;

1615 (vii) Section 59-10-1032;

1616 (viii) Section 59-10-1035;

1617 (ix) Section 59-10-1104;

1618 (x) Section 59-10-1105; and

1619 (xi) Section 59-10-1108.

1620 (b) On or before November 30, 2018, and every three years after 2018, the committee  
1621 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
1622 following sections:

1623 (i) Section 59-10-1005;

1624 (ii) Section 59-10-1006;

1625 (iii) Section 59-10-1012;

1626 (iv) Section 59-10-1022;

1627 (v) Section 59-10-1023;

1628 (vi) Section 59-10-1028;

1629 (vii) Section 59-10-1034;

1630 (viii) Section 59-10-1037;

1631 (ix) Section 59-10-1107; and

1632 (x) Section 59-10-1112.

1633 (c) On or before November 30, 2019, and every three years after 2019, the committee  
1634 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
1635 following sections:

1636 (i) Section 59-10-1007;

1637 (ii) Section 59-10-1014;

1638 (iii) Section 59-10-1017;

1639 (iv) Section 59-10-1018;

1640 (v) Section 59-10-1019;

1641 (vi) Section 59-10-1024;

1642 (vii) Section 59-10-1029;

1643 ~~[(viii) Section 59-10-1033;]~~

1644 ~~[(ix)]~~ (viii) Section 59-10-1036;

1645 ~~[(x)]~~ (ix) Section 59-10-1106; and

1646 ~~[(xi)]~~ (x) Section 59-10-1111.

1647 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
1648 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
1649 2017.

1650 (ii) The committee shall complete a review described in this Subsection (3)(d) three  
1651 years after the effective date of the tax credit and every three years after the initial review date.

1652 Section 18. Section **59-10-507** is amended to read:

1653 **59-10-507. Return by a pass-through entity.**

1654 ~~[(1) As used in this section:]~~

1655 ~~[(a) "Pass-through entity" is as defined in Section 59-10-1402.]~~

1656 ~~[(b) "Taxable"]~~ (1) As used in this section, "taxable year" means a year or other time  
1657 period that would be a taxable year of a pass-through entity if the pass-through entity were  
1658 subject to taxation under this chapter.

1659 (2) A pass-through entity having any income derived from or connected with Utah  
1660 sources shall make a return for the taxable year in accordance with Section 59-10-514.

1661 Section 19. Section **59-10-514** is amended to read:

1662 **59-10-514. Return filing requirements -- Rulemaking authority.**

1663 (1) (a) Subject to Subsection (3) and Section 59-10-518:

1664 ~~[(a)]~~ (i) an individual income tax return filed for a tax imposed in accordance with Part  
1665 1, Determination and Reporting of Tax Liability and Information, shall be filed with the  
1666 commission on or before the day on which a federal individual income tax return is due [~~under~~  
1667 ~~the Internal Revenue Code~~];

1668 ~~[(b)]~~ (ii) a fiduciary income tax return filed for a tax imposed in accordance with Part  
1669 2, Trusts and Estates, shall be filed with the commission on or before the day on which a  
1670 federal return for estates and trusts is due [~~under the Internal Revenue Code~~]; or

1671 ~~[(c)]~~ (iii) a return filed in accordance with Section 59-10-507 shall be filed with the  
1672 commission on or before the later of:

1673 (A) the 15th day of the fourth month following the last day of the taxpayer's taxable

1674 year[-]; or

1675 (B) the day on which the taxpayer is required to file a federal income tax return.

1676 (b) Interest accrues from the day on which a return is due under this Subsection (1).

1677 (2) A person required to make and file a return under this chapter shall, without  
1678 assessment, notice, or demand, pay any tax due:

1679 (a) to the commission; and

1680 (b) before the due date for filing the return, without regard to any extension of time for  
1681 filing the return.

1682 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1683 commission may make rules prescribing what constitutes filing a return with the commission.

1684 Section 20. Section **59-10-516** is amended to read:

1685 **59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.**

1686 (1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

1687 (b) Except as provided in Subsection (1)(c):

1688 (i) [~~For~~] for a return filed by a taxpayer except for a partnership, the extension [~~under~~]  
1689 described in Subsection (1)(a) may [not exceed] be up to six months[-]; and

1690 (ii) [~~For~~] for a return filed by a partnership, the extension [~~under~~] described in  
1691 Subsection (1)(a) may [not exceed] be up to five months.

1692 [~~(2)(a) Except as provided in Subsection (2)(b), the commission may not impose on a~~  
1693 ~~taxpayer during the extension period prescribed under Subsection (1) a penalty under Section~~  
1694 ~~59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close~~  
1695 ~~of the taxpayer's taxable year, the lesser of:]~~

1696 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before  
1697 December 31, 2019, a taxpayer may receive an extension described in Subsection (1)(a) for the  
1698 time period that ends on the last day of the extension to file the taxpayer's federal income tax  
1699 return.

1700 (2) The commission may not impose a penalty under Section 59-1-401 during the  
1701 extension period described in Subsection (1) on:

1702 (a) a pass-through entity, if the pass-through entity, on or before the return due date  
1703 described in Section 59-10-514, pays or withholds the tax on behalf of a pass-through entity  
1704 taxpayer; or

1705 (b) a taxpayer other than a taxpayer described in Subsection (2)(a), if the taxpayer pays,  
1706 on or before the return due date described in Section 59-10-514, an amount equal to the lesser  
1707 of:

1708 (i) 90% of the total tax reported on the return for the current taxable year; or  
1709 (ii) 100% of the total tax liability for the taxable year immediately preceding the current  
1710 taxable year.

1711 ~~[(b)]~~ (3) If a taxpayer fails to meet the requirements of Subsection (2)~~[(a)]~~, the  
1712 commission may apply to the total balance due a penalty as provided in Section 59-1-401.

1713 ~~[(3)]~~ (4) If a federal income tax return filing is lawfully delayed pending a  
1714 determination of qualification for a federal tax exemption due to residency outside of the  
1715 United States, a taxpayer shall file a return within 30 days after that determination is made.

1716 Section 21. Section **59-10-522** is amended to read:

1717 **59-10-522. Extension of time for paying tax.**

1718 (1) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or  
1719 before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the  
1720 amount determined as the tax of the taxpayer, or any part of that amount, for the time period  
1721 that ends on the last day of the extension to pay the taxpayer's federal income tax.

1722 ~~[(1) The]~~ (b) (i) For a taxable year beginning on or after January 1, 2020, the  
1723 commission, except as otherwise provided by this chapter, may extend the time for payment of  
1724 the amount shown, or required to be shown, on any return required under authority of this  
1725 chapter (or any installment thereof), for a reasonable period not to exceed six months from the  
1726 date fixed for payment thereof.

1727 (ii) [Such] The extension may exceed six months in the cases of taxpayers who are  
1728 outside the states of the union and the District of Columbia.

1729 (2) (a) Under rules prescribed by the commission, the time for payment of the amount  
1730 determined as a deficiency may be extended for a period not to exceed 18 months from the date  
1731 fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed  
1732 12 months.

1733 (b) An extension under this subsection may be granted only where it is shown to the  
1734 satisfaction of the commission that the payment of a deficiency upon the date fixed for the  
1735 payment thereof will result in undue hardship to the taxpayer.

1736 (c) No extension may be granted if the deficiency is due to negligence, to intentional  
1737 disregard of rules, or to fraud with intent to evade tax.

1738 (3) ~~[Extensions]~~ An extension of time for payment of any portion of a claim for an  
1739 unpaid tax under this chapter, allowed in bankruptcy or receivership proceedings, [which is  
1740 unpaid,] may be had in the same manner and subject to the same provisions and limitations as  
1741 provided in Subsection (2) ~~[in respect of a deficiency in tax].~~

1742 Section 22. Section **59-10-1007** is amended to read:

1743 **59-10-1007. Recycling market development zones tax credits.**

1744 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling  
1745 market development zone as defined in Section 19-13-102 may claim the following  
1746 nonrefundable tax credits:

1747 (a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection  
1748 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

1749 (i) commercial composting; or

1750 (ii) manufacturing facilities or plant units that:

1751 (A) manufacture, process, compound, or produce recycled items of tangible personal  
1752 property for sale; or

1753 (B) reduce or reuse postconsumer waste material; and

1754 (b) a tax credit equal to the lesser of:

1755 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test  
1756 inventory, and utilities made by the claimant, estate, or trust for establishing and operating  
1757 recycling or composting technology in the state; and

1758 (ii) \$2,000.

1759 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust  
1760 shall receive from the Department of Environmental Quality a written certification, on a form  
1761 approved by the commission, that includes:

1762 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a  
1763 recycling market development zone;

1764 (ii) for a claim of the tax credit described in Subsection (1)(a):

1765 (A) the type of the machinery and equipment that the claimant, estate, or trust  
1766 purchased;

1767 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;  
1768 (C) the purchase price for the machinery and equipment;

1769 (D) the total purchase price for all machinery and equipment for which the claimant,  
1770 estate, or trust is claiming a tax credit;

1771 (E) the amount of the claimant's, estate's, or trust's tax credit; and

1772 (F) a statement that the machinery and equipment are integral to the composting or  
1773 recycling process; and

1774 (iii) for a claim of the tax credit described in Subsection (1)(b):

1775 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

1776 (B) the date that the claimant, estate, or trust made the payment to a third party;

1777 (C) the amount that the claimant, estate, or trust paid to each third party;

1778 (D) the total amount that the claimant, estate, or trust paid to all third parties;

1779 (E) a statement that the net expenditures support the establishment and operation of  
1780 recycling or composting technology in the state; and

1781 (F) the amount of the claimant's, estate's, or trust's tax credit.

1782 (b) (i) The Department of Environmental Quality shall provide a claimant, estate, or  
1783 trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

1784 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the  
1785 same period of time that a person is required to keep books and records under Section  
1786 59-1-1406.

1787 (c) The Department of Environmental Quality shall submit to the commission an  
1788 electronic list that includes:

1789 (i) the name and identifying information of each claimant, estate, or trust to which the  
1790 Department of Environmental Quality issues a written certification; and

1791 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written  
1792 certification.

1793 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),  
1794 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income  
1795 tax liability as the tax liability is calculated:

1796 (a) for the taxable year in which the claimant, estate, or trust made the purchases or  
1797 payments;

1798 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable  
1799 year; and

1800 (c) before the claimant, estate, or trust claims a tax credit authorized by this section.

1801 (4) The commission shall make rules governing what information a claimant, estate, or  
1802 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

1803 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may  
1804 carry forward, to the next three taxable years, the amount of a tax credit described in  
1805 Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.

1806 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in  
1807 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries  
1808 forward a tax credit under Section 63N-2-213.

1809 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)  
1810 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax  
1811 credit under Section 63N-2-213.

1812 (8) A claimant, estate, or trust may not claim or carry forward a tax credit under this  
1813 section for a taxable year during which the claimant, estate, or trust claims the targeted  
1814 business income tax credit under Section 59-10-1112.

1815 Section 23. Section **59-10-1017** is amended to read:

1816 **59-10-1017. Utah Educational Savings Plan tax credit.**

1817 (1) As used in this section:

1818 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

1819 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

1820 (c) "Higher education costs" means the same as that term is defined in Section  
1821 53B-8a-102.5.

1822 (d) "Maximum amount of a qualified investment for the taxable year" means, for a  
1823 taxable year, the product of [5%] the percentage listed in Subsection 59-10-104(2) and:

1824 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account  
1825 owner, if that claimant, estate, or trust is other than husband and wife account owners who file  
1826 a single return jointly, the maximum amount of a qualified investment:

1827 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

1828 (B) increased or kept for that taxable year in accordance with Subsections

1829 53B-8a-106(1)(f) and (g);  
1830 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account  
1831 owners who file a single return jointly, the maximum amount of a qualified investment:  
1832 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and  
1833 (B) increased or kept for that taxable year in accordance with Subsections  
1834 53B-8a-106(1)(f) and (g); or  
1835 (iii) for a grantor trust:  
1836 (A) if the owner of the grantor trust has a single filing status or head of household  
1837 filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or  
1838 (B) if the owner of the grantor trust has a joint filing status as defined in Section  
1839 59-10-1018, the amount described in Subsection (1)(d)(ii).  
1840 (e) "Owner of the grantor trust" means the same as that term is defined in Section  
1841 53B-8a-102.5.  
1842 (f) "Qualified investment" means the same as that term is defined in Section  
1843 53B-8a-102.5.  
1844 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of  
1845 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax  
1846 credit equal to the product of:  
1847 (a) the amount of a qualified investment made:  
1848 (i) during the taxable year; and  
1849 (ii) into an account owned by the claimant, estate, or trust; and  
1850 [~~(b) 5%.~~]  
1851 (b) the percentage listed in Subsection 59-10-104(2).  
1852 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may  
1853 make a qualified investment described in Subsection (2).  
1854 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit  
1855 under this section with respect to any portion of a qualified investment described in Subsection  
1856 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal  
1857 income tax return.  
1858 (5) A tax credit under this section may not exceed the maximum amount of a qualified  
1859 investment for the taxable year.

1860 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry  
1861 back the tax credit under this section.

1862 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to  
1863 the tax credit described in Section 59-10-1017.1.

1864 Section 24. Section **59-10-1017.1** is amended to read:

1865 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

1866 (1) As used in this section, "qualified donation" means an amount donated, in  
1867 accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in  
1868 Section 53B-8a-202.

1869 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified  
1870 donation.

1871 (3) The tax credit equals the product of:

1872 (a) the qualified donation; and

1873 [~~(b) 5%.~~]

1874 (b) the percentage listed in Subsection 59-10-104(2).

1875 (4) A claimant, estate, or trust may not claim a tax credit under this section with  
1876 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a  
1877 federal income tax return.

1878 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the  
1879 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for  
1880 the taxable year in which the claimant, estate, or trust claims the tax credit.

1881 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to  
1882 the tax credit described in Section 59-10-1017.

1883 Section 25. Section **59-10-1022** is amended to read:

1884 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

1885 (1) As used in this section:

1886 (a) (i) "Capital gain transaction" means a transaction that results in a:

1887 (A) short-term capital gain; or

1888 (B) long-term capital gain.

1889 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1890 commission may by rule define the term "transaction."

1891 (b) "Commercial domicile" means the principal place from which the trade or business  
1892 of a Utah small business corporation is directed or managed.

1893 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

1894 (d) "Qualifying stock" means stock that is:

1895 (i) (A) common; or

1896 (B) preferred;

1897 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter  
1898 3, Utah Administrative Rulemaking Act, originally issued to:

1899 (A) a claimant, estate, or trust; or

1900 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this  
1901 section:

1902 (I) was a partner on the day on which the stock was issued; and

1903 (II) remains a partner until the last day of the taxable year for which the claimant,  
1904 estate, or trust claims a tax credit under this section; and

1905 (iii) issued:

1906 (A) by a Utah small business corporation;

1907 (B) on or after January 1, 2008; and

1908 (C) for:

1909 (I) money; or

1910 (II) other property, except for stock or securities.

1911 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

1912 (f) (i) "Utah small business corporation" means a corporation that:

1913 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as  
1914 defined in Section 1244(c)(3), Internal Revenue Code;

1915 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section  
1916 1244(c)(1)(C), Internal Revenue Code; and

1917 (C) has its commercial domicile in this state.

1918 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

1919 (iii) The phrase "the date the loss on such stock was sustained" in Sections  
1920 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the  
1921 taxable year for which the claimant, estate, or trust claims a tax credit under this section."

1922 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust  
1923 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the  
1924 product of:

1925 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or  
1926 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

1927 [~~(b) 5%.~~]

1928 (b) the percentage listed in Subsection 59-10-104(2).

1929 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the  
1930 nonrefundable tax credit allowed by Subsection (2) if:

1931 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

1932 (i) to purchase qualifying stock in a Utah small business corporation; and

1933 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

1934 and

1935 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the  
1936 claimant, estate, or trust did not have an ownership interest in the Utah small business  
1937 corporation that issued the qualifying stock.

1938 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under  
1939 this section.

1940 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1941 commission may make rules:

1942 (a) defining the term "gross proceeds"; and

1943 (b) prescribing the circumstances under which a claimant, estate, or trust has an  
1944 ownership interest in a Utah small business corporation.

1945 Section 26. Section **59-10-1023** is amended to read:

1946 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**  
1947 **plan.**

1948 (1) As used in this section:

1949 (a) "Claimant with dependents" means a claimant:

1950 (i) regardless of the claimant's filing status for purposes of filing a federal individual  
1951 income tax return for the taxable year; and

1952 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as

1953 allowed on the claimant's federal individual income tax return for the taxable year.

1954 (b) "Eligible insured individual" means:

1955 (i) the claimant who is insured under a health benefit plan;

1956 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

1957 (A) the claimant files a single return jointly under this chapter with the claimant's

1958 spouse for the taxable year; and

1959 (B) the spouse is insured under the health benefit plan described in Subsection

1960 (1)(b)(i); or

1961 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

1962 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as

1963 allowed on the claimant's federal individual income tax return for the taxable year; and

1964 (B) the dependent is insured under the health benefit plan described in Subsection

1965 (1)(b)(i).

1966 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under

1967 a health benefit plan for a taxable year if:

1968 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue

1969 Code:

1970 (A) on the claimant's federal individual income tax return for the taxable year; and

1971 (B) with respect to an eligible insured individual;

1972 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue

1973 Code:

1974 (A) on the claimant's federal individual income tax return for the taxable year; and

1975 (B) with respect to an eligible insured individual; or

1976 (iii) the claimant excludes that amount from gross income under Section 106 or 125,

1977 Internal Revenue Code, with respect to an eligible insured individual.

1978 (d) (i) "Health benefit plan" is as defined in Section 31A-1-301.

1979 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the

1980 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah

1981 Administrative Rulemaking Act.

1982 (e) "Joint claimant with no dependents" means a husband and wife who:

1983 (i) file a single return jointly under this chapter for the taxable year; and

1984 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the  
1985 husband's and wife's federal individual income tax return for the taxable year.

1986 (f) "Single claimant with no dependents" means:

1987 (i) a single individual who:

1988 (A) files a single federal individual income tax return for the taxable year; and

1989 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the  
1990 single individual's federal individual income tax return for the taxable year;

1991 (ii) a head of household:

1992 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal  
1993 individual income tax return for the taxable year; and

1994 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the  
1995 head of household's federal individual income tax return for the taxable year; or

1996 (iii) a married individual who:

1997 (A) does not file a single federal individual income tax return jointly with that married  
1998 individual's spouse for the taxable year; and

1999 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that  
2000 married individual's federal individual income tax return for the taxable year.

2001 (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable  
2002 years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit  
2003 equal to the product of:

2004 (a) the difference between:

2005 (i) the total amount the claimant pays during the taxable year for:

2006 (A) insurance offered under a health benefit plan; and

2007 (B) an eligible insured individual; and

2008 (ii) excluded expenses; and

2009 [~~(b) 5%.~~]

2010 (b) the percentage listed in Subsection 59-10-104(2).

2011 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may  
2012 claim on a return for a taxable year is:

2013 (a) for a single claimant with no dependents, \$300;

2014 (b) for a joint claimant with no dependents, \$600; or

- 2015 (c) for a claimant with dependents, \$900.
- 2016 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
- 2017 participate in insurance offered under a health benefit plan maintained and funded in whole or
- 2018 in part by:
- 2019 (a) the claimant's employer; or
- 2020 (b) another person's employer.
- 2021 (5) A claimant may not carry forward or carry back a tax credit under this section.
- 2022 Section 27. Section **59-10-1028** is amended to read:
- 2023 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
- 2024 **exchange of one form of legal tender for another form of legal tender.**
- 2025 (1) As used in this section:
- 2026 (a) "Capital gain transaction" means a transaction that results in a:
- 2027 (i) short-term capital gain; or
- 2028 (ii) long-term capital gain.
- 2029 (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 2030 (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.
- 2031 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
- 2032 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
- 2033 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
- 2034 sum of long-term capital losses and short-term capital losses on those transactions for that
- 2035 taxable year.
- 2036 (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.
- 2037 (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 2038 (2) Except as provided in Section 59-10-1002.2, for taxable years beginning on or after
- 2039 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the
- 2040 product of:
- 2041 (a) to the extent a net capital gain is included in taxable income, the amount of the
- 2042 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made
- 2043 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of
- 2044 legal tender; and
- 2045 [~~(b) 5%.~~]

2046 (b) the percentage listed in Subsection 59-10-104(2).

2047 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under  
2048 this section.

2049 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2050 commission may make rules to implement this section.

2051 Section 28. Section **59-10-1035** is amended to read:

2052 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**  
2053 **Life Experience Program account.**

2054 (1) As used in this section:

2055 (a) "Account" means an account in a qualified ABLE program where the designated  
2056 beneficiary of the account is a resident of this state.

2057 (b) "Contributor" means a claimant, estate, or trust that:

2058 (i) makes a contribution to an account; and

2059 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

2060 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.  
2061 529A.

2062 (d) "Qualified ABLE program" means the same as that term is defined in Section  
2063 35A-12-102.

2064 (2) A contributor to an account may claim a nonrefundable tax credit as provided in  
2065 this section.

2066 (3) Subject to the other provisions of this section, the tax credit is equal to the product  
2067 of:

2068 [~~(a) 5%, and~~]

2069 (a) the percentage listed in Subsection 59-10-104(2); and

2070 (b) the total amount of contributions:

2071 (i) the contributor makes for the taxable year; and

2072 (ii) for which the contributor receives a statement from the qualified ABLE program  
2073 itemizing the contributions.

2074 (4) A contributor may not claim a tax credit under this section:

2075 (a) for an amount of excess contribution to an account that is returned to the  
2076 contributor; or

2077 (b) with respect to an amount the contributor deducts on a federal income tax return.

2078 (5) A tax credit under this section may not be carried forward or carried back.

2079 Section 29. Section **59-10-1036** is amended to read:

2080 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

2081 (1) As used in this section:

2082 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2083 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.  
2084 10101.

2085 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2086 (d) "Survivor benefits" means the amount paid by the federal government in  
2087 accordance with 10 U.S.C. Secs. 1447 through 1455.

2088 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for  
2089 survivor benefits if the benefits are paid due to:

2090 (a) the death of a member of the armed forces or reserve components while on active  
2091 duty; or

2092 (b) the death of a member of the reserve components that results from a  
2093 service-connected cause while performing inactive duty training.

2094 (3) The tax credit described in Subsection (2) is equal to the product of:

2095 (a) the amount of survivor benefits that the surviving spouse or dependent child  
2096 received during the taxable year; and

2097 [~~(b) 5%.~~]

2098 (b) the percentage listed in Subsection 59-10-104(2).

2099 (4) The tax credit described in Subsection (2):

2100 (a) may not be carried forward or carried back; and

2101 (b) applies to a taxable year beginning on or after January 1, 2017.

2102 Section 30. Section **59-10-1403** is amended to read:

2103 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**

2104 **Classification same as under Internal Revenue Code.**

2105 (1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by  
2106 this chapter.

2107 (2) Except as provided in Section 59-10-1403.3, the income, gain, loss, deduction, or

2108 credit of a pass-through entity shall be passed through to one or more pass-through entity  
2109 taxpayers as provided in this part.

2110 (3) A pass-through entity is subject to the return filing requirements of Sections  
2111 59-10-507 [~~and~~], 59-10-514, and 59-10-516.

2112 (4) For purposes of taxation under this title, a pass-through entity that transacts  
2113 business in the state shall be classified in the same manner as the pass-through entity is  
2114 classified for federal income tax purposes.

2115 Section 31. Section **59-10-1403.3** is amended to read:

2116 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

2117 (1) As used in this section:

2118 (a) "Committee" means the Revenue and Taxation Interim Committee.

2119 (b) "Qualifying excess withholding" means an amount that:

2120 (i) is paid or withheld:

2121 (A) by a pass-through entity that has a different taxable year than the pass-through  
2122 entity that requests a refund under this section; and

2123 (B) on behalf of the pass-through entity that requests the refund, if the pass-through  
2124 entity that requests the refund also is a pass-through entity taxpayer; and

2125 (ii) is equal to the difference between:

2126 (A) the amount paid or withheld for the taxable year on behalf of the pass-through  
2127 entity that requests the refund; and

2128 (B) the product of [~~5%~~] the percentage listed in Subsection 59-10-104(2) and the  
2129 income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests  
2130 the refund.

2131 (2) For a taxable year ending on or after July 1, 2017, a pass-through entity may claim  
2132 a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is  
2133 equal to or greater than \$250,000.

2134 (3) A pass-through entity that requests a refund of qualifying excess withholding under  
2135 this section shall:

2136 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day  
2137 on which the pass-through entity files the pass-through entity's income tax return; and

2138 (b) provide any information that the commission may require to determine that the

2139 pass-through entity is eligible to receive the refund.

2140 (4) A pass-through entity shall claim a refund of qualifying excess withholding under  
2141 this section within 30 days after the earlier of the day on which:

2142 (a) the pass-through entity files an income tax return; or

2143 (b) the pass-through entity's income tax return is due, including any extension of due  
2144 date authorized in statute.

2145 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2146 commission may make rules establishing the information that a pass-through entity shall  
2147 provide to the commission to obtain a refund of qualifying excess withholding under this  
2148 section.

2149 (6) (a) On or before November 30, 2018, the committee shall review the \$250,000  
2150 threshold described in Subsection (2) for the purpose of assessing whether the threshold  
2151 amount should be maintained, increased, or decreased.

2152 (b) To assist the committee in conducting the review described in Subsection (6)(a),  
2153 the commission shall provide the committee with:

2154 (i) the total number of refund requests made under this section;

2155 (ii) the total costs of any refunds issued under this section;

2156 (iii) the costs of any audits conducted on refund requests made under this section; and

2157 (iv) an estimation of:

2158 (A) the number of refund requests the commission expects to receive if the Legislature  
2159 increases the threshold;

2160 (B) the number of refund requests the commission expects to receive if the Legislature  
2161 decreases the threshold; and

2162 (C) the costs of any audits the commission would conduct if the Legislature increases  
2163 or decreases the threshold.

2164 Section 32. Section **59-12-102** is amended to read:

2165 **59-12-102. Definitions.**

2166 As used in this chapter:

2167 (1) "800 service" means a telecommunications service that:

2168 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2169 (b) is typically marketed:

- 2170 (i) under the name 800 toll-free calling;
- 2171 (ii) under the name 855 toll-free calling;
- 2172 (iii) under the name 866 toll-free calling;
- 2173 (iv) under the name 877 toll-free calling;
- 2174 (v) under the name 888 toll-free calling; or
- 2175 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 2176 Federal Communications Commission.
- 2177 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 2178 (i) a subscriber purchases;
- 2179 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 2180 the subscriber's:
- 2181 (A) prerecorded announcement; or
- 2182 (B) live service; and
- 2183 (iii) is typically marketed:
- 2184 (A) under the name 900 service; or
- 2185 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 2186 Communications Commission.
- 2187 (b) "900 service" does not include a charge for:
- 2188 (i) a collection service a seller of a telecommunications service provides to a
- 2189 subscriber; or
- 2190 (ii) the following a subscriber sells to the subscriber's customer:
- 2191 (A) a product; or
- 2192 (B) a service.
- 2193 (3) (a) "Admission or user fees" includes season passes.
- 2194 (b) "Admission or user fees" does not include:
- 2195 (i) annual membership dues to private organizations; or
- 2196 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 2197 facility listed in Subsection 59-12-103(1)(f).
- 2198 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 2199 person:
- 2200 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other

2201 person; or

2202 (b) is related to the other person because a third person, or a group of third persons who  
 2203 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,  
 2204 whether direct or indirect, in the related persons.

2205 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
 2206 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
 2207 Agreement after November 12, 2002.

2208 (6) "Agreement combined tax rate" means the sum of the tax rates:

2209 (a) listed under Subsection (7); and

2210 (b) that are imposed within a local taxing jurisdiction.

2211 (7) "Agreement sales and use tax" means a tax imposed under:

2212 (a) Subsection 59-12-103(2)(a)(i)(A);

2213 (b) Subsection 59-12-103(2)(b)(i);

2214 (c) Subsection 59-12-103(2)(c)(i);

2215 (d) Subsection 59-12-103(2)(d);

2216 [~~(d)~~] (e) Subsection 59-12-103(2)[~~(d)~~](e)(i)(A)(I);

2217 [~~(e)~~] (f) Section 59-12-204;

2218 [~~(f)~~] (g) Section 59-12-401;

2219 [~~(g)~~] (h) Section 59-12-402;

2220 [~~(h)~~] (i) Section 59-12-402.1;

2221 [~~(i)~~] (j) Section 59-12-703;

2222 [~~(j)~~] (k) Section 59-12-802;

2223 [~~(k)~~] (l) Section 59-12-804;

2224 [~~(l)~~] (m) Section 59-12-1102;

2225 [~~(m)~~] (n) Section 59-12-1302;

2226 [~~(n)~~] (o) Section 59-12-1402;

2227 [~~(o)~~] (p) Section 59-12-1802;

2228 [~~(p)~~] (q) Section 59-12-2003;

2229 [~~(q)~~] (r) Section 59-12-2103;

2230 [~~(r)~~] (s) Section 59-12-2213;

2231 [~~(s)~~] (t) Section 59-12-2214;

- 2232           ~~[(t)]~~ (u) Section 59-12-2215;
- 2233           ~~[(u)]~~ (v) Section 59-12-2216;
- 2234           ~~[(v)]~~ (w) Section 59-12-2217;
- 2235           ~~[(w)]~~ (x) Section 59-12-2218;
- 2236           ~~[(x)]~~ (y) Section 59-12-2219; or
- 2237           ~~[(y)]~~ (z) Section 59-12-2220.
- 2238           (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 2239           (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2240           (a) except for:
- 2241           (i) an airline as defined in Section 59-2-102; or
- 2242           (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2243 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2244 state, of an airline; and
- 2245           (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2246 whether the business entity performs the following in this state:
- 2247           (i) check, diagnose, overhaul, and repair:
- 2248           (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2249           (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2250           (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2251 engine;
- 2252           (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2253 aircraft:
- 2254           (A) an inspection;
- 2255           (B) a repair, including a structural repair or modification;
- 2256           (C) changing landing gear; and
- 2257           (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2258           (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2259 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2260           (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2261 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2262 authority that certifies the fixed wing turbine powered aircraft.

- 2263 (10) "Alcoholic beverage" means a beverage that:
- 2264 (a) is suitable for human consumption; and
- 2265 (b) contains .5% or more alcohol by volume.
- 2266 (11) "Alternative energy" means:
- 2267 (a) biomass energy;
- 2268 (b) geothermal energy;
- 2269 (c) hydroelectric energy;
- 2270 (d) solar energy;
- 2271 (e) wind energy; or
- 2272 (f) energy that is derived from:
- 2273 (i) coal-to-liquids;
- 2274 (ii) nuclear fuel;
- 2275 (iii) oil-impregnated diatomaceous earth;
- 2276 (iv) oil sands;
- 2277 (v) oil shale;
- 2278 (vi) petroleum coke; or
- 2279 (vii) waste heat from:
- 2280 (A) an industrial facility; or
- 2281 (B) a power station in which an electric generator is driven through a process in which
- 2282 water is heated, turns into steam, and spins a steam turbine.
- 2283 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 2284 facility" means a facility that:
- 2285 (i) uses alternative energy to produce electricity; and
- 2286 (ii) has a production capacity of two megawatts or greater.
- 2287 (b) A facility is an alternative energy electricity production facility regardless of
- 2288 whether the facility is:
- 2289 (i) connected to an electric grid; or
- 2290 (ii) located on the premises of an electricity consumer.
- 2291 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 2292 provision of telecommunications service.
- 2293 (b) "Ancillary service" includes:

- 2294 (i) a conference bridging service;
- 2295 (ii) a detailed communications billing service;
- 2296 (iii) directory assistance;
- 2297 (iv) a vertical service; or
- 2298 (v) a voice mail service.
- 2299 (14) "Area agency on aging" means the same as that term is defined in Section
- 2300 62A-3-101.
- 2301 (15) "Assisted amusement device" means an amusement device, skill device, or ride
- 2302 device that is started and stopped by an individual:
- 2303 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 2304 device, skill device, or ride device; and
- 2305 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 2306 or ride device.
- 2307 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 2308 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 2309 by an individual:
- 2310 (a) who is not the purchaser of the cleaning or washing of the tangible personal
- 2311 property; and
- 2312 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 2313 property.
- 2314 (17) "Authorized carrier" means:
- 2315 (a) in the case of vehicles operated over public highways, the holder of credentials
- 2316 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 2317 Plan and the International Fuel Tax Agreement;
- 2318 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 2319 certificate or air carrier's operating certificate; or
- 2320 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 2321 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
- 2322 stock in more than one state.
- 2323 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the
- 2324 following that is used as the primary source of energy to produce fuel or electricity:

- 2325 (i) material from a plant or tree; or
- 2326 (ii) other organic matter that is available on a renewable basis, including:
- 2327 (A) slash and brush from forests and woodlands;
- 2328 (B) animal waste;
- 2329 (C) waste vegetable oil;
- 2330 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 2331 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 2332 thermal conversion process;
- 2333 (E) aquatic plants; and
- 2334 (F) agricultural products.
- 2335 (b) "Biomass energy" does not include:
- 2336 (i) black liquor; or
- 2337 (ii) treated woods.
- 2338 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 2339 property, products, or services if the tangible personal property, products, or services are:
- 2340 (i) distinct and identifiable; and
- 2341 (ii) sold for one nonitemized price.
- 2342 (b) "Bundled transaction" does not include:
- 2343 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 2344 the basis of the selection by the purchaser of the items of tangible personal property included in
- 2345 the transaction;
- 2346 (ii) the sale of real property;
- 2347 (iii) the sale of services to real property;
- 2348 (iv) the retail sale of tangible personal property and a service if:
- 2349 (A) the tangible personal property:
- 2350 (I) is essential to the use of the service; and
- 2351 (II) is provided exclusively in connection with the service; and
- 2352 (B) the service is the true object of the transaction;
- 2353 (v) the retail sale of two services if:
- 2354 (A) one service is provided that is essential to the use or receipt of a second service;
- 2355 (B) the first service is provided exclusively in connection with the second service; and

2356 (C) the second service is the true object of the transaction;

2357 (vi) a transaction that includes tangible personal property or a product subject to

2358 taxation under this chapter and tangible personal property or a product that is not subject to

2359 taxation under this chapter if the:

2360 (A) seller's purchase price of the tangible personal property or product subject to

2361 taxation under this chapter is de minimis; or

2362 (B) seller's sales price of the tangible personal property or product subject to taxation

2363 under this chapter is de minimis; and

2364 (vii) the retail sale of tangible personal property that is not subject to taxation under

2365 this chapter and tangible personal property that is subject to taxation under this chapter if:

2366 (A) that retail sale includes:

2367 (I) food and food ingredients;

2368 (II) a drug;

2369 (III) durable medical equipment;

2370 (IV) mobility enhancing equipment;

2371 (V) an over-the-counter drug;

2372 (VI) a prosthetic device; or

2373 (VII) a medical supply; and

2374 (B) subject to Subsection (19)(f):

2375 (I) the seller's purchase price of the tangible personal property subject to taxation under

2376 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

2377 (II) the seller's sales price of the tangible personal property subject to taxation under

2378 this chapter is 50% or less of the seller's total sales price of that retail sale.

2379 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a

2380 service that is distinct and identifiable does not include:

2381 (A) packaging that:

2382 (I) accompanies the sale of the tangible personal property, product, or service; and

2383 (II) is incidental or immaterial to the sale of the tangible personal property, product, or

2384 service;

2385 (B) tangible personal property, a product, or a service provided free of charge with the

2386 purchase of another item of tangible personal property, a product, or a service; or

2387 (C) an item of tangible personal property, a product, or a service included in the  
2388 definition of "purchase price."

2389 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a  
2390 product, or a service is provided free of charge with the purchase of another item of tangible  
2391 personal property, a product, or a service if the sales price of the purchased item of tangible  
2392 personal property, product, or service does not vary depending on the inclusion of the tangible  
2393 personal property, product, or service provided free of charge.

2394 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price  
2395 does not include a price that is separately identified by tangible personal property, product, or  
2396 service on the following, regardless of whether the following is in paper format or electronic  
2397 format:

2398 (A) a binding sales document; or

2399 (B) another supporting sales-related document that is available to a purchaser.

2400 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another  
2401 supporting sales-related document that is available to a purchaser includes:

2402 (A) a bill of sale;

2403 (B) a contract;

2404 (C) an invoice;

2405 (D) a lease agreement;

2406 (E) a periodic notice of rates and services;

2407 (F) a price list;

2408 (G) a rate card;

2409 (H) a receipt; or

2410 (I) a service agreement.

2411 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal  
2412 property or a product subject to taxation under this chapter is de minimis if:

2413 (A) the seller's purchase price of the tangible personal property or product is 10% or  
2414 less of the seller's total purchase price of the bundled transaction; or

2415 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
2416 the seller's total sales price of the bundled transaction.

2417 (ii) For purposes of Subsection (19)(b)(vi), a seller:

2418 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
2419 purchase price or sales price of the tangible personal property or product subject to taxation  
2420 under this chapter is de minimis; and

2421 (B) may not use a combination of the seller's purchase price and the seller's sales price  
2422 to determine if the purchase price or sales price of the tangible personal property or product  
2423 subject to taxation under this chapter is de minimis.

2424 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service  
2425 contract to determine if the sales price of tangible personal property or a product is de minimis.

2426 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of  
2427 the seller's purchase price and the seller's sales price to determine if tangible personal property  
2428 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
2429 price of that retail sale.

2430 (20) "Certified automated system" means software certified by the governing board of  
2431 the agreement that:

2432 (a) calculates the agreement sales and use tax imposed within a local taxing  
2433 jurisdiction:

2434 (i) on a transaction; and

2435 (ii) in the states that are members of the agreement;

2436 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
2437 member of the agreement; and

2438 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

2439 (21) "Certified service provider" means an agent certified:

2440 (a) by the governing board of the agreement; and

2441 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,  
2442 as outlined in the contract between the governing board of the agreement and the certified  
2443 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the  
2444 seller's own purchases.

2445 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel  
2446 suitable for general use.

2447 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2448 commission shall make rules:

- 2449 (i) listing the items that constitute "clothing"; and  
2450 (ii) that are consistent with the list of items that constitute "clothing" under the  
2451 agreement.
- 2452 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 2453 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
2454 fuels that does not constitute industrial use under Subsection (57) or residential use under  
2455 Subsection (112).
- 2456 (25) (a) "Common carrier" means a person engaged in or transacting the business of  
2457 transporting passengers, freight, merchandise, or other property for hire within this state.
- 2458 (b) (i) "Common carrier" does not include a person that, at the time the person is  
2459 traveling to or from that person's place of employment, transports a passenger to or from the  
2460 passenger's place of employment.
- 2461 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,  
2462 Utah Administrative Rulemaking Act, the commission may make rules defining what  
2463 constitutes a person's place of employment.
- 2464 (c) "Common carrier" does not include a person that provides transportation network  
2465 services, as defined in Section 13-51-102.
- 2466 (26) "Component part" includes:
- 2467 (a) poultry, dairy, and other livestock feed, and their components;  
2468 (b) baling ties and twine used in the baling of hay and straw;  
2469 (c) fuel used for providing temperature control of orchards and commercial  
2470 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
2471 off-highway type farm machinery; and
- 2472 (d) feed, seeds, and seedlings.
- 2473 (27) "Computer" means an electronic device that accepts information:
- 2474 (a) (i) in digital form; or  
2475 (ii) in a form similar to digital form; and  
2476 (b) manipulates that information for a result based on a sequence of instructions.
- 2477 (28) "Computer software" means a set of coded instructions designed to cause:
- 2478 (a) a computer to perform a task; or  
2479 (b) automatic data processing equipment to perform a task.

2480 (29) "Computer software maintenance contract" means a contract that obligates a seller  
2481 of computer software to provide a customer with:

2482 (a) future updates or upgrades to computer software;

2483 (b) support services with respect to computer software; or

2484 (c) a combination of Subsections (29)(a) and (b).

2485 (30) (a) "Conference bridging service" means an ancillary service that links two or  
2486 more participants of an audio conference call or video conference call.

2487 (b) "Conference bridging service" may include providing a telephone number as part of  
2488 the ancillary service described in Subsection (30)(a).

2489 (c) "Conference bridging service" does not include a telecommunications service used  
2490 to reach the ancillary service described in Subsection (30)(a).

2491 (31) "Construction materials" means any tangible personal property that will be  
2492 converted into real property.

2493 (32) "Delivered electronically" means delivered to a purchaser by means other than  
2494 tangible storage media.

2495 (33) (a) "Delivery charge" means a charge:

2496 (i) by a seller of:

2497 (A) tangible personal property;

2498 (B) a product transferred electronically; or

2499 (C) a service; and

2500 (ii) for preparation and delivery of the tangible personal property, product transferred  
2501 electronically, or services described in Subsection (33)(a)(i) to a location designated by the  
2502 purchaser.

2503 (b) "Delivery charge" includes a charge for the following:

2504 (i) transportation;

2505 (ii) shipping;

2506 (iii) postage;

2507 (iv) handling;

2508 (v) crating; or

2509 (vi) packing.

2510 (34) "Detailed telecommunications billing service" means an ancillary service of

- 2511 separately stating information pertaining to individual calls on a customer's billing statement.
- 2512 (35) "Dietary supplement" means a product, other than tobacco, that:
- 2513 (a) is intended to supplement the diet;
- 2514 (b) contains one or more of the following dietary ingredients:
- 2515 (i) a vitamin;
- 2516 (ii) a mineral;
- 2517 (iii) an herb or other botanical;
- 2518 (iv) an amino acid;
- 2519 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2520 dietary intake; or
- 2521 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2522 described in Subsections (35)(b)(i) through (v);
- 2523 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 2524 (A) tablet form;
- 2525 (B) capsule form;
- 2526 (C) powder form;
- 2527 (D) softgel form;
- 2528 (E) gelcap form; or
- 2529 (F) liquid form; or
- 2530 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2531 (35)(c)(i)(A) through (F), is not represented:
- 2532 (A) as conventional food; and
- 2533 (B) for use as a sole item of:
- 2534 (I) a meal; or
- 2535 (II) the diet; and
- 2536 (d) is required to be labeled as a dietary supplement:
- 2537 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2538 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2539 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2540 musical, spoken, or other sounds.
- 2541 (b) "Digital audio work" includes a ringtone.

2542 (37) "Digital audio-visual work" means a series of related images which, when shown  
2543 in succession, imparts an impression of motion, together with accompanying sounds, if any.

2544 (38) "Digital book" means a work that is generally recognized in the ordinary and usual  
2545 sense as a book.

2546 (39) (a) "Direct mail" means printed material delivered or distributed by United States  
2547 mail or other delivery service:

2548 (i) to:

2549 (A) a mass audience; or

2550 (B) addressees on a mailing list provided:

2551 (I) by a purchaser of the mailing list; or

2552 (II) at the discretion of the purchaser of the mailing list; and

2553 (ii) if the cost of the printed material is not billed directly to the recipients.

2554 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
2555 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

2556 (c) "Direct mail" does not include multiple items of printed material delivered to a  
2557 single address.

2558 (40) "Directory assistance" means an ancillary service of providing:

2559 (a) address information; or

2560 (b) telephone number information.

2561 (41) (a) "Disposable home medical equipment or supplies" means medical equipment  
2562 or supplies that:

2563 (i) cannot withstand repeated use; and

2564 (ii) are purchased by, for, or on behalf of a person other than:

2565 (A) a health care facility as defined in Section 26-21-2;

2566 (B) a health care provider as defined in Section 78B-3-403;

2567 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

2568 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

2569 (b) "Disposable home medical equipment or supplies" does not include:

2570 (i) a drug;

2571 (ii) durable medical equipment;

2572 (iii) a hearing aid;

- 2573 (iv) a hearing aid accessory;
- 2574 (v) mobility enhancing equipment; or
- 2575 (vi) tangible personal property used to correct impaired vision, including:
- 2576 (A) eyeglasses; or
- 2577 (B) contact lenses.
- 2578 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2579 commission may by rule define what constitutes medical equipment or supplies.
- 2580 (42) "Drilling equipment manufacturer" means a facility:
- 2581 (a) located in the state;
- 2582 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2583 consist of manufacturing component parts of drilling equipment;
- 2584 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2585 manufacturing process; and
- 2586 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2587 manufacturing process.
- 2588 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2589 compound, substance, or preparation that is:
- 2590 (i) recognized in:
- 2591 (A) the official United States Pharmacopoeia;
- 2592 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2593 (C) the official National Formulary; or
- 2594 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 2595 (ii) intended for use in the:
- 2596 (A) diagnosis of disease;
- 2597 (B) cure of disease;
- 2598 (C) mitigation of disease;
- 2599 (D) treatment of disease; or
- 2600 (E) prevention of disease; or
- 2601 (iii) intended to affect:
- 2602 (A) the structure of the body; or
- 2603 (B) any function of the body.

- 2604 (b) "Drug" does not include:
- 2605 (i) food and food ingredients;
- 2606 (ii) a dietary supplement;
- 2607 (iii) an alcoholic beverage; or
- 2608 (iv) a prosthetic device.
- 2609 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 2610 equipment that:
- 2611 (i) can withstand repeated use;
- 2612 (ii) is primarily and customarily used to serve a medical purpose;
- 2613 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2614 (iv) is not worn in or on the body.
- 2615 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2616 equipment described in Subsection (44)(a).
- 2617 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2618 (45) "Electronic" means:
- 2619 (a) relating to technology; and
- 2620 (b) having:
- 2621 (i) electrical capabilities;
- 2622 (ii) digital capabilities;
- 2623 (iii) magnetic capabilities;
- 2624 (iv) wireless capabilities;
- 2625 (v) optical capabilities;
- 2626 (vi) electromagnetic capabilities; or
- 2627 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 2628 (46) "Electronic financial payment service" means an establishment:
- 2629 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2630 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2631 federal Executive Office of the President, Office of Management and Budget; and
- 2632 (b) that performs electronic financial payment services.
- 2633 (47) "Employee" means the same as that term is defined in Section 59-10-401.
- 2634 (48) "Fixed guideway" means a public transit facility that uses and occupies:

- 2635 (a) rail for the use of public transit; or
- 2636 (b) a separate right-of-way for the use of public transit.
- 2637 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2638 (a) is powered by turbine engines;
- 2639 (b) operates on jet fuel; and
- 2640 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2641 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 2642 communication between fixed points.
- 2643 (51) (a) "Food and food ingredients" means substances:
- 2644 (i) regardless of whether the substances are in:
- 2645 (A) liquid form;
- 2646 (B) concentrated form;
- 2647 (C) solid form;
- 2648 (D) frozen form;
- 2649 (E) dried form; or
- 2650 (F) dehydrated form; and
- 2651 (ii) that are:
- 2652 (A) sold for:
- 2653 (I) ingestion by humans; or
- 2654 (II) chewing by humans; and
- 2655 (B) consumed for the substance's:
- 2656 (I) taste; or
- 2657 (II) nutritional value.
- 2658 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
- 2659 (c) "Food and food ingredients" does not include:
- 2660 (i) an alcoholic beverage;
- 2661 (ii) tobacco; or
- 2662 (iii) prepared food.
- 2663 (52) (a) "Fundraising sales" means sales:
- 2664 (i) (A) made by a school; or
- 2665 (B) made by a school student;

2666 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
2667 materials, or provide transportation; and

2668 (iii) that are part of an officially sanctioned school activity.

2669 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"  
2670 means a school activity:

2671 (i) that is conducted in accordance with a formal policy adopted by the school or school  
2672 district governing the authorization and supervision of fundraising activities;

2673 (ii) that does not directly or indirectly compensate an individual teacher or other  
2674 educational personnel by direct payment, commissions, or payment in kind; and

2675 (iii) the net or gross revenues from which are deposited in a dedicated account  
2676 controlled by the school or school district.

2677 (53) "Geothermal energy" means energy contained in heat that continuously flows  
2678 outward from the earth that is used as the sole source of energy to produce electricity.

2679 (54) "Governing board of the agreement" means the governing board of the agreement  
2680 that is:

2681 (a) authorized to administer the agreement; and

2682 (b) established in accordance with the agreement.

2683 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2684 (i) the executive branch of the state, including all departments, institutions, boards,  
2685 divisions, bureaus, offices, commissions, and committees;

2686 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
2687 Administrative Office of the Courts, and similar administrative units in the judicial branch;

2688 (iii) the legislative branch of the state, including the House of Representatives, the  
2689 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
2690 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
2691 Analyst;

2692 (iv) the National Guard;

2693 (v) an independent entity as defined in Section 63E-1-102; or

2694 (vi) a political subdivision as defined in Section 17B-1-102.

2695 (b) "Governmental entity" does not include the state systems of public and higher  
2696 education, including:

- 2697 (i) a school;
- 2698 (ii) the State Board of Education;
- 2699 (iii) the Utah Board of Higher Education; or
- 2700 (iv) an institution of higher education described in Section 53B-1-102.
- 2701 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
- 2702 electricity.
- 2703 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 2704 other fuels:
- 2705 (a) in mining or extraction of minerals;
- 2706 (b) in agricultural operations to produce an agricultural product up to the time of
- 2707 harvest or placing the agricultural product into a storage facility, including:
- 2708 (i) commercial greenhouses;
- 2709 (ii) irrigation pumps;
- 2710 (iii) farm machinery;
- 2711 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 2712 under Title 41, Chapter 1a, Part 2, Registration; and
- 2713 (v) other farming activities;
- 2714 (c) in manufacturing tangible personal property at an establishment described in:
- 2715 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 2716 the federal Executive Office of the President, Office of Management and Budget; or
- 2717 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 2718 American Industry Classification System of the federal Executive Office of the President,
- 2719 Office of Management and Budget;
- 2720 (d) by a scrap recycler if:
- 2721 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2722 one or more of the following items into prepared grades of processed materials for use in new
- 2723 products:
- 2724 (A) iron;
- 2725 (B) steel;
- 2726 (C) nonferrous metal;
- 2727 (D) paper;

- 2728 (E) glass;
- 2729 (F) plastic;
- 2730 (G) textile; or
- 2731 (H) rubber; and
- 2732 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
- 2733 nonrecycled materials; or
- 2734 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 2735 cogeneration facility as defined in Section 54-2-1.
- 2736 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge
- 2737 for installing:
- 2738 (i) tangible personal property; or
- 2739 (ii) a product transferred electronically.
- 2740 (b) "Installation charge" does not include a charge for:
- 2741 (i) repairs or renovations of:
- 2742 (A) tangible personal property; or
- 2743 (B) a product transferred electronically; or
- 2744 (ii) attaching tangible personal property or a product transferred electronically:
- 2745 (A) to other tangible personal property; and
- 2746 (B) as part of a manufacturing or fabrication process.
- 2747 (59) "Institution of higher education" means an institution of higher education listed in
- 2748 Section 53B-2-101.
- 2749 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 2750 personal property or a product transferred electronically for:
- 2751 (i) (A) a fixed term; or
- 2752 (B) an indeterminate term; and
- 2753 (ii) consideration.
- 2754 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 2755 amount of consideration may be increased or decreased by reference to the amount realized
- 2756 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 2757 Code.
- 2758 (c) "Lease" or "rental" does not include:

- 2759 (i) a transfer of possession or control of property under a security agreement or  
2760 deferred payment plan that requires the transfer of title upon completion of the required  
2761 payments;
- 2762 (ii) a transfer of possession or control of property under an agreement that requires the  
2763 transfer of title:
- 2764 (A) upon completion of required payments; and  
2765 (B) if the payment of an option price does not exceed the greater of:  
2766 (I) \$100; or  
2767 (II) 1% of the total required payments; or
- 2768 (iii) providing tangible personal property along with an operator for a fixed period of  
2769 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
2770 designed.
- 2771 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to  
2772 perform as designed if the operator's duties exceed the:
- 2773 (i) set-up of tangible personal property;  
2774 (ii) maintenance of tangible personal property; or  
2775 (iii) inspection of tangible personal property.
- 2776 (61) "Lesson" means a fixed period of time for the duration of which a trained  
2777 instructor:
- 2778 (a) is present with a student in person or by video; and  
2779 (b) actively instructs the student, including by providing observation or feedback.
- 2780 (62) "Life science establishment" means an establishment in this state that is classified  
2781 under the following NAICS codes of the 2007 North American Industry Classification System  
2782 of the federal Executive Office of the President, Office of Management and Budget:
- 2783 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;  
2784 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
2785 Manufacturing; or  
2786 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 2787 (63) "Life science research and development facility" means a facility owned, leased,  
2788 or rented by a life science establishment if research and development is performed in 51% or  
2789 more of the total area of the facility.

2790 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
2791 if the tangible storage media is not physically transferred to the purchaser.

2792 (65) "Local taxing jurisdiction" means a:

2793 (a) county that is authorized to impose an agreement sales and use tax;

2794 (b) city that is authorized to impose an agreement sales and use tax; or

2795 (c) town that is authorized to impose an agreement sales and use tax.

2796 (66) "Manufactured home" means the same as that term is defined in Section

2797 15A-1-302.

2798 (67) "Manufacturing facility" means:

2799 (a) an establishment described in:

2800 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
2801 the federal Executive Office of the President, Office of Management and Budget; or

2802 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

2803 American Industry Classification System of the federal Executive Office of the President,

2804 Office of Management and Budget;

2805 (b) a scrap recycler if:

2806 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

2807 one or more of the following items into prepared grades of processed materials for use in new

2808 products:

2809 (A) iron;

2810 (B) steel;

2811 (C) nonferrous metal;

2812 (D) paper;

2813 (E) glass;

2814 (F) plastic;

2815 (G) textile; or

2816 (H) rubber; and

2817 (ii) the new products under Subsection [~~(66)~~] (67)(b)(i) would otherwise be made with

2818 nonrecycled materials; or

2819 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is

2820 placed in service on or after May 1, 2006.

2821 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where  
2822 tangible personal property, a product transferred electronically, or a service is offered for sale.

2823 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a  
2824 dedicated sales software application.

2825 (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person,  
2826 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
2827 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
2828 controls and that directly or indirectly:

2829 (i) does any of the following:

2830 (A) lists, makes available, or advertises tangible personal property, a product  
2831 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
2832 person owns, operates, or controls;

2833 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
2834 transferred electronically, or service by transmitting or otherwise communicating an offer or  
2835 acceptance of a retail sale between the marketplace seller and a purchaser using the  
2836 marketplace;

2837 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
2838 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
2839 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
2840 property, a product transferred electronically, or a service;

2841 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
2842 personal property, a product transferred electronically, or a service, regardless of ownership or  
2843 control of the tangible personal property, the product transferred electronically, or the service  
2844 that is the subject of the retail sale;

2845 (E) provides software development or research and development activities related to  
2846 any activity described in this Subsection (69)(a)(i), if the software development or research and  
2847 development activity is directly related to the person's marketplace;

2848 (F) provides or offers fulfillment or storage services for a marketplace seller;

2849 (G) sets prices for the sale of tangible personal property, a product transferred  
2850 electronically, or a service by a marketplace seller;

2851 (H) provides or offers customer service to a marketplace seller or a marketplace seller's

2852 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
2853 property, a product transferred electronically, or a service sold by a marketplace seller on the  
2854 person's marketplace; or

2855 (I) brands or otherwise identifies sales as those of the person; and

2856 (ii) does any of the following:

2857 (A) collects the sales price or purchase price of a retail sale of tangible personal  
2858 property, a product transferred electronically, or a service;

2859 (B) provides payment processing services for a retail sale of tangible personal property,  
2860 a product transferred electronically, or a service;

2861 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
2862 fee, a fee for inserting or making available tangible personal property, a product transferred  
2863 electronically, or a service on the person's marketplace, or other consideration for the  
2864 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
2865 a service, regardless of ownership or control of the tangible personal property, the product  
2866 transferred electronically, or the service that is the subject of the retail sale;

2867 (D) through terms and conditions, an agreement, or another arrangement with a third  
2868 person, collects payment from a purchase for a retail sale of tangible personal property, a  
2869 product transferred electronically, or a service and transmits that payment to the marketplace  
2870 seller, regardless of whether the third person receives compensation or other consideration in  
2871 exchange for the service; or

2872 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
2873 property, a product transferred electronically, or service offered for sale.

2874 (b) "Marketplace facilitator" does not include:

2875 (i) a person that only provides payment processing services; or

2876 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a  
2877 sale for a seller that is a restaurant as defined in Section 59-12-602.

2878 (70) "Marketplace seller" means a seller that makes one or more retail sales through a  
2879 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
2880 seller is required to be registered to collect and remit the tax under this part.

2881 (71) "Member of the immediate family of the producer" means a person who is related  
2882 to a producer described in Subsection 59-12-104(20)(a) as a:

- 2883 (a) child or stepchild, regardless of whether the child or stepchild is:  
2884 (i) an adopted child or adopted stepchild; or  
2885 (ii) a foster child or foster stepchild;  
2886 (b) grandchild or stepgrandchild;  
2887 (c) grandparent or stepgrandparent;  
2888 (d) nephew or stepnephew;  
2889 (e) niece or stepniece;  
2890 (f) parent or stepparent;  
2891 (g) sibling or stepsibling;  
2892 (h) spouse;  
2893 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);  
2894 or  
2895 (j) person similar to a person described in Subsections (71)(a) through (i) as  
2896 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
2897 Administrative Rulemaking Act.  
2898 (72) "Mobile home" means the same as that term is defined in Section 15A-1-302.  
2899 (73) "Mobile telecommunications service" means the same as that term is defined in  
2900 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.  
2901 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of  
2902 the technology used, if:  
2903 (i) the origination point of the conveyance, routing, or transmission is not fixed;  
2904 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or  
2905 (iii) the origination point described in Subsection (74)(a)(i) and the termination point  
2906 described in Subsection (74)(a)(ii) are not fixed.  
2907 (b) "Mobile wireless service" includes a telecommunications service that is provided  
2908 by a commercial mobile radio service provider.  
2909 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2910 commission may by rule define "commercial mobile radio service provider."  
2911 (75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment"  
2912 means equipment that is:  
2913 (i) primarily and customarily used to provide or increase the ability to move from one

- 2914 place to another;
- 2915 (ii) appropriate for use in a:
- 2916 (A) home; or
- 2917 (B) motor vehicle; and
- 2918 (iii) not generally used by persons with normal mobility.
- 2919 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 2920 the equipment described in Subsection (75)(a).
- 2921 (c) "Mobility enhancing equipment" does not include:
- 2922 (i) a motor vehicle;
- 2923 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 2924 vehicle manufacturer;
- 2925 (iii) durable medical equipment; or
- 2926 (iv) a prosthetic device.
- 2927 (76) "Model 1 seller" means a seller registered under the agreement that has selected a
- 2928 certified service provider as the seller's agent to perform the seller's sales and use tax functions
- 2929 for agreement sales and use taxes, as outlined in the contract between the governing board of
- 2930 the agreement and the certified service provider, other than the seller's obligation under Section
- 2931 59-12-124 to remit a tax on the seller's own purchases.
- 2932 (77) "Model 2 seller" means a seller registered under the agreement that:
- 2933 (a) except as provided in Subsection (77)(b), has selected a certified automated system
- 2934 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 2935 (b) retains responsibility for remitting all of the sales tax:
- 2936 (i) collected by the seller; and
- 2937 (ii) to the appropriate local taxing jurisdiction.
- 2938 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under
- 2939 the agreement that has:
- 2940 (i) sales in at least five states that are members of the agreement;
- 2941 (ii) total annual sales revenues of at least \$500,000,000;
- 2942 (iii) a proprietary system that calculates the amount of tax:
- 2943 (A) for an agreement sales and use tax; and
- 2944 (B) due to each local taxing jurisdiction; and

2945 (iv) entered into a performance agreement with the governing board of the agreement.

2946 (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of  
2947 sellers using the same proprietary system.

2948 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a  
2949 model 1 seller, model 2 seller, or model 3 seller.

2950 (80) "Modular home" means a modular unit as defined in Section 15A-1-302.

2951 (81) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

2952 (82) "Oil sands" means impregnated bituminous sands that:

2953 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
2954 other hydrocarbons, or otherwise treated;

2955 (b) yield mixtures of liquid hydrocarbon; and

2956 (c) require further processing other than mechanical blending before becoming finished  
2957 petroleum products.

2958 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
2959 material that yields petroleum upon heating and distillation.

2960 (84) "Optional computer software maintenance contract" means a computer software  
2961 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
2962 sale of computer software.

2963 (85) (a) "Other fuels" means products that burn independently to produce heat or  
2964 energy.

2965 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
2966 personal property.

2967 (86) (a) "Paging service" means a telecommunications service that provides  
2968 transmission of a coded radio signal for the purpose of activating a specific pager.

2969 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal  
2970 includes a transmission by message or sound.

2971 (87) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

2972 (88) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

2973 (89) (a) "Permanently attached to real property" means that for tangible personal  
2974 property attached to real property:

2975 (i) the attachment of the tangible personal property to the real property:

- 2976 (A) is essential to the use of the tangible personal property; and
- 2977 (B) suggests that the tangible personal property will remain attached to the real
- 2978 property in the same place over the useful life of the tangible personal property; or
- 2979 (ii) if the tangible personal property is detached from the real property, the detachment
- 2980 would:
- 2981 (A) cause substantial damage to the tangible personal property; or
- 2982 (B) require substantial alteration or repair of the real property to which the tangible
- 2983 personal property is attached.
- 2984 (b) "Permanently attached to real property" includes:
- 2985 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 2986 (A) essential to the operation of the tangible personal property; and
- 2987 (B) attached only to facilitate the operation of the tangible personal property;
- 2988 (ii) a temporary detachment of tangible personal property from real property for a
- 2989 repair or renovation if the repair or renovation is performed where the tangible personal
- 2990 property and real property are located; or
- 2991 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 2992 Subsection (89)(c)(iii) or (iv).
- 2993 (c) "Permanently attached to real property" does not include:
- 2994 (i) the attachment of portable or movable tangible personal property to real property if
- 2995 that portable or movable tangible personal property is attached to real property only for:
- 2996 (A) convenience;
- 2997 (B) stability; or
- 2998 (C) for an obvious temporary purpose;
- 2999 (ii) the detachment of tangible personal property from real property except for the
- 3000 detachment described in Subsection (89)(b)(ii);
- 3001 (iii) an attachment of the following tangible personal property to real property if the
- 3002 attachment to real property is only through a line that supplies water, electricity, gas,
- 3003 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 3004 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 3005 (A) a computer;
- 3006 (B) a telephone;

- 3007 (C) a television; or
- 3008 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as  
3009 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
3010 Administrative Rulemaking Act; or
- 3011 (iv) an item listed in Subsection (130)(c).
- 3012 (90) "Person" includes any individual, firm, partnership, joint venture, association,  
3013 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
3014 municipality, district, or other local governmental entity of the state, or any group or  
3015 combination acting as a unit.
- 3016 (91) "Place of primary use":
- 3017 (a) for telecommunications service other than mobile telecommunications service,  
3018 means the street address representative of where the customer's use of the telecommunications  
3019 service primarily occurs, which shall be:
- 3020 (i) the residential street address of the customer; or
- 3021 (ii) the primary business street address of the customer; or
- 3022 (b) for mobile telecommunications service, means the same as that term is defined in  
3023 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 3024 (92) (a) "Postpaid calling service" means a telecommunications service a person  
3025 obtains by making a payment on a call-by-call basis:
- 3026 (i) through the use of a:
- 3027 (A) bank card;
- 3028 (B) credit card;
- 3029 (C) debit card; or
- 3030 (D) travel card; or
- 3031 (ii) by a charge made to a telephone number that is not associated with the origination  
3032 or termination of the telecommunications service.
- 3033 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
3034 service, that would be a prepaid wireless calling service if the service were exclusively a  
3035 telecommunications service.
- 3036 (93) "Postproduction" means an activity related to the finishing or duplication of a  
3037 medium described in Subsection 59-12-104(54)(a).

- 3038 (94) "Prepaid calling service" means a telecommunications service:
- 3039 (a) that allows a purchaser access to telecommunications service that is exclusively
- 3040 telecommunications service;
- 3041 (b) that:
- 3042 (i) is paid for in advance; and
- 3043 (ii) enables the origination of a call using an:
- 3044 (A) access number; or
- 3045 (B) authorization code;
- 3046 (c) that is dialed:
- 3047 (i) manually; or
- 3048 (ii) electronically; and
- 3049 (d) sold in predetermined units or dollars that decline:
- 3050 (i) by a known amount; and
- 3051 (ii) with use.
- 3052 (95) "Prepaid wireless calling service" means a telecommunications service:
- 3053 (a) that provides the right to utilize:
- 3054 (i) mobile wireless service; and
- 3055 (ii) other service that is not a telecommunications service, including:
- 3056 (A) the download of a product transferred electronically;
- 3057 (B) a content service; or
- 3058 (C) an ancillary service;
- 3059 (b) that:
- 3060 (i) is paid for in advance; and
- 3061 (ii) enables the origination of a call using an:
- 3062 (A) access number; or
- 3063 (B) authorization code;
- 3064 (c) that is dialed:
- 3065 (i) manually; or
- 3066 (ii) electronically; and
- 3067 (d) sold in predetermined units or dollars that decline:
- 3068 (i) by a known amount; and

- 3069 (ii) with use.
- 3070 (96) (a) "Prepared food" means:
- 3071 (i) food:
- 3072 (A) sold in a heated state; or
- 3073 (B) heated by a seller;
- 3074 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3075 item; or
- 3076 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
- 3077 by the seller, including a:
- 3078 (A) plate;
- 3079 (B) knife;
- 3080 (C) fork;
- 3081 (D) spoon;
- 3082 (E) glass;
- 3083 (F) cup;
- 3084 (G) napkin; or
- 3085 (H) straw.
- 3086 (b) "Prepared food" does not include:
- 3087 (i) food that a seller only:
- 3088 (A) cuts;
- 3089 (B) repackages; or
- 3090 (C) pasteurizes; or
- 3091 (ii) (A) the following:
- 3092 (I) raw egg;
- 3093 (II) raw fish;
- 3094 (III) raw meat;
- 3095 (IV) raw poultry; or
- 3096 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);
- 3097 and
- 3098 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3099 Food and Drug Administration's Food Code that a consumer cook the items described in

- 3100 Subsection (96)(b)(ii)(A) to prevent food borne illness; or
- 3101 (iii) the following if sold without eating utensils provided by the seller:
- 3102 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3103 classification under the 2002 North American Industry Classification System of the federal
- 3104 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3105 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3106 Manufacturing;
- 3107 (B) food and food ingredients sold in an unheated state:
- 3108 (I) by weight or volume; and
- 3109 (II) as a single item; or
- 3110 (C) a bakery item, including:
- 3111 (I) a bagel;
- 3112 (II) a bar;
- 3113 (III) a biscuit;
- 3114 (IV) bread;
- 3115 (V) a bun;
- 3116 (VI) a cake;
- 3117 (VII) a cookie;
- 3118 (VIII) a croissant;
- 3119 (IX) a danish;
- 3120 (X) a donut;
- 3121 (XI) a muffin;
- 3122 (XII) a pastry;
- 3123 (XIII) a pie;
- 3124 (XIV) a roll;
- 3125 (XV) a tart;
- 3126 (XVI) a torte; or
- 3127 (XVII) a tortilla.
- 3128 (c) An eating utensil provided by the seller does not include the following used to
- 3129 transport the food:
- 3130 (i) a container; or

- 3131 (ii) packaging.
- 3132 (97) "Prescription" means an order, formula, or recipe that is issued:
- 3133 (a) (i) orally;
- 3134 (ii) in writing;
- 3135 (iii) electronically; or
- 3136 (iv) by any other manner of transmission; and
- 3137 (b) by a licensed practitioner authorized by the laws of a state.
- 3138 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer
- 3139 software" means computer software that is not designed and developed:
- 3140 (i) by the author or other creator of the computer software; and
- 3141 (ii) to the specifications of a specific purchaser.
- 3142 (b) "Prewritten computer software" includes:
- 3143 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 3144 software is not designed and developed:
- 3145 (A) by the author or other creator of the computer software; and
- 3146 (B) to the specifications of a specific purchaser;
- 3147 (ii) computer software designed and developed by the author or other creator of the
- 3148 computer software to the specifications of a specific purchaser if the computer software is sold
- 3149 to a person other than the purchaser; or
- 3150 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
- 3151 prewritten portion of prewritten computer software:
- 3152 (A) that is modified or enhanced to any degree; and
- 3153 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is
- 3154 designed and developed to the specifications of a specific purchaser.
- 3155 (c) "Prewritten computer software" does not include a modification or enhancement
- 3156 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:
- 3157 (i) reasonable; and
- 3158 (ii) subject to Subsections 59-12-103(2)[~~(e)~~](f)(ii) and (2)[~~(f)~~](g)(i), separately stated
- 3159 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
- 3160 as demonstrated by:
- 3161 (A) the books and records the seller keeps at the time of the transaction in the regular

3162 course of business, including books and records the seller keeps at the time of the transaction in  
3163 the regular course of business for nontax purposes;

3164 (B) a preponderance of the facts and circumstances at the time of the transaction; and

3165 (C) the understanding of all of the parties to the transaction.

3166 (99) (a) "Private communications service" means a telecommunications service:

3167 (i) that entitles a customer to exclusive or priority use of one or more communications  
3168 channels between or among termination points; and

3169 (ii) regardless of the manner in which the one or more communications channels are  
3170 connected.

3171 (b) "Private communications service" includes the following provided in connection  
3172 with the use of one or more communications channels:

3173 (i) an extension line;

3174 (ii) a station;

3175 (iii) switching capacity; or

3176 (iv) another associated service that is provided in connection with the use of one or  
3177 more communications channels as defined in Section 59-12-215.

3178 (100) (a) Except as provided in Subsection (100)(b), "product transferred  
3179 electronically" means a product transferred electronically that would be subject to a tax under  
3180 this chapter if that product was transferred in a manner other than electronically.

3181 (b) "Product transferred electronically" does not include:

3182 (i) an ancillary service;

3183 (ii) computer software; or

3184 (iii) a telecommunications service.

3185 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:

3186 (i) artificially replace a missing portion of the body;

3187 (ii) prevent or correct a physical deformity or physical malfunction; or

3188 (iii) support a weak or deformed portion of the body.

3189 (b) "Prosthetic device" includes:

3190 (i) parts used in the repairs or renovation of a prosthetic device;

3191 (ii) replacement parts for a prosthetic device;

3192 (iii) a dental prosthesis; or

- 3193 (iv) a hearing aid.
- 3194 (c) "Prosthetic device" does not include:
- 3195 (i) corrective eyeglasses; or
- 3196 (ii) contact lenses.
- 3197 (102) (a) "Protective equipment" means an item:
- 3198 (i) for human wear; and
- 3199 (ii) that is:
- 3200 (A) designed as protection:
- 3201 (I) to the wearer against injury or disease; or
- 3202 (II) against damage or injury of other persons or property; and
- 3203 (B) not suitable for general use.
- 3204 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3205 commission shall make rules:
- 3206 (i) listing the items that constitute "protective equipment"; and
- 3207 (ii) that are consistent with the list of items that constitute "protective equipment"
- 3208 under the agreement.
- 3209 (103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written
- 3210 or printed matter, other than a photocopy:
- 3211 (i) regardless of:
- 3212 (A) characteristics;
- 3213 (B) copyright;
- 3214 (C) form;
- 3215 (D) format;
- 3216 (E) method of reproduction; or
- 3217 (F) source; and
- 3218 (ii) made available in printed or electronic format.
- 3219 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3220 commission may by rule define the term "photocopy."
- 3221 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 3222 (i) valued in money; and
- 3223 (ii) for which tangible personal property, a product transferred electronically, or

- 3224 services are:
- 3225 (A) sold;
- 3226 (B) leased; or
- 3227 (C) rented.
- 3228 (b) "Purchase price" and "sales price" include:
- 3229 (i) the seller's cost of the tangible personal property, a product transferred
- 3230 electronically, or services sold;
- 3231 (ii) expenses of the seller, including:
- 3232 (A) the cost of materials used;
- 3233 (B) a labor cost;
- 3234 (C) a service cost;
- 3235 (D) interest;
- 3236 (E) a loss;
- 3237 (F) the cost of transportation to the seller; or
- 3238 (G) a tax imposed on the seller;
- 3239 (iii) a charge by the seller for any service necessary to complete the sale; or
- 3240 (iv) consideration a seller receives from a person other than the purchaser if:
- 3241 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 3242 and
- 3243 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
- 3244 price reduction or discount on the sale;
- 3245 (B) the seller has an obligation to pass the price reduction or discount through to the
- 3246 purchaser;
- 3247 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 3248 the seller at the time of the sale to the purchaser; and
- 3249 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 3250 seller to claim a price reduction or discount; and
- 3251 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 3252 coupon, or other documentation with the understanding that the person other than the seller
- 3253 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 3254 (II) the purchaser identifies that purchaser to the seller as a member of a group or

3255 organization allowed a price reduction or discount, except that a preferred customer card that is  
3256 available to any patron of a seller does not constitute membership in a group or organization  
3257 allowed a price reduction or discount; or

3258 (III) the price reduction or discount is identified as a third party price reduction or  
3259 discount on the:

3260 (Aa) invoice the purchaser receives; or

3261 (Bb) certificate, coupon, or other documentation the purchaser presents.

3262 (c) "Purchase price" and "sales price" do not include:

3263 (i) a discount:

3264 (A) in a form including:

3265 (I) cash;

3266 (II) term; or

3267 (III) coupon;

3268 (B) that is allowed by a seller;

3269 (C) taken by a purchaser on a sale; and

3270 (D) that is not reimbursed by a third party; or

3271 (ii) subject to Subsections 59-12-103(2)(~~e~~)(f)(ii) and (2)(~~f~~)(g)(i), the following if  
3272 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at  
3273 the time of sale or later, as demonstrated by the books and records the seller keeps at the time  
3274 of the transaction in the regular course of business, including books and records the seller  
3275 keeps at the time of the transaction in the regular course of business for nontax purposes, by a  
3276 preponderance of the facts and circumstances at the time of the transaction, and by the  
3277 understanding of all of the parties to the transaction:

3278 (A) the following from credit extended on the sale of tangible personal property or  
3279 services:

3280 (I) a carrying charge;

3281 (II) a financing charge; or

3282 (III) an interest charge;

3283 (B) a delivery charge;

3284 (C) an installation charge;

3285 (D) a manufacturer rebate on a motor vehicle; or

- 3286 (E) a tax or fee legally imposed directly on the consumer.
- 3287 (105) "Purchaser" means a person to whom:
- 3288 (a) a sale of tangible personal property is made;
- 3289 (b) a product is transferred electronically; or
- 3290 (c) a service is furnished.
- 3291 (106) "Qualifying data center" means a data center facility that:
- 3292 (a) houses a group of networked server computers in one physical location in order to
- 3293 disseminate, manage, and store data and information;
- 3294 (b) is located in the state;
- 3295 (c) is a new operation constructed on or after July 1, 2016;
- 3296 (d) consists of one or more buildings that total 150,000 or more square feet;
- 3297 (e) is owned or leased by:
- 3298 (i) the operator of the data center facility; or
- 3299 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 3300 of the data center facility; and
- 3301 (f) is located on one or more parcels of land that are owned or leased by:
- 3302 (i) the operator of the data center facility; or
- 3303 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 3304 of the data center facility.
- 3305 (107) "Regularly rented" means:
- 3306 (a) rented to a guest for value three or more times during a calendar year; or
- 3307 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 3308 value.
- 3309 (108) "Rental" means the same as that term is defined in Subsection (60).
- 3310 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
- 3311 personal property" means:
- 3312 (i) a repair or renovation of tangible personal property that is not permanently attached
- 3313 to real property; or
- 3314 (ii) attaching tangible personal property or a product transferred electronically to other
- 3315 tangible personal property or detaching tangible personal property or a product transferred
- 3316 electronically from other tangible personal property if:

3317 (A) the other tangible personal property to which the tangible personal property or  
3318 product transferred electronically is attached or from which the tangible personal property or  
3319 product transferred electronically is detached is not permanently attached to real property; and

3320 (B) the attachment of tangible personal property or a product transferred electronically  
3321 to other tangible personal property or detachment of tangible personal property or a product  
3322 transferred electronically from other tangible personal property is made in conjunction with a  
3323 repair or replacement of tangible personal property or a product transferred electronically.

3324 (b) "Repairs or renovations of tangible personal property" does not include:

3325 (i) attaching prewritten computer software to other tangible personal property if the  
3326 other tangible personal property to which the prewritten computer software is attached is not  
3327 permanently attached to real property; or

3328 (ii) detaching prewritten computer software from other tangible personal property if the  
3329 other tangible personal property from which the prewritten computer software is detached is  
3330 not permanently attached to real property.

3331 (110) "Research and development" means the process of inquiry or experimentation  
3332 aimed at the discovery of facts, devices, technologies, or applications and the process of  
3333 preparing those devices, technologies, or applications for marketing.

3334 (111) (a) "Residential telecommunications services" means a telecommunications  
3335 service or an ancillary service that is provided to an individual for personal use:

3336 (i) at a residential address; or

3337 (ii) at an institution, including a nursing home or a school, if the telecommunications  
3338 service or ancillary service is provided to and paid for by the individual residing at the  
3339 institution rather than the institution.

3340 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:

3341 (i) apartment; or

3342 (ii) other individual dwelling unit.

3343 (112) "Residential use" means the use in or around a home, apartment building,  
3344 sleeping quarters, and similar facilities or accommodations.

3345 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
3346 than:

3347 (a) resale;

3348 (b) sublease; or

3349 (c) subrent.

3350 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the  
3351 United States or federal law, that is engaged in a regularly organized business in tangible  
3352 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
3353 selling to the user or consumer and not for resale.

3354 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
3355 engaged in the business of selling to users or consumers within the state.

3356 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
3357 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
3358 Subsection 59-12-103(1), for consideration.

3359 (b) "Sale" includes:

3360 (i) installment and credit sales;

3361 (ii) any closed transaction constituting a sale;

3362 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
3363 chapter;

3364 (iv) any transaction if the possession of property is transferred but the seller retains the  
3365 title as security for the payment of the price; and

3366 (v) any transaction under which right to possession, operation, or use of any article of  
3367 tangible personal property is granted under a lease or contract and the transfer of possession  
3368 would be taxable if an outright sale were made.

3369 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

3370 (117) "Sale-leaseback transaction" means a transaction by which title to tangible  
3371 personal property or a product transferred electronically that is subject to a tax under this  
3372 chapter is transferred:

3373 (a) by a purchaser-lessee;

3374 (b) to a lessor;

3375 (c) for consideration; and

3376 (d) if:

3377 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
3378 of the tangible personal property or product transferred electronically;

3379 (ii) the sale of the tangible personal property or product transferred electronically to the  
3380 lessor is intended as a form of financing:

3381 (A) for the tangible personal property or product transferred electronically; and

3382 (B) to the purchaser-lessee; and

3383 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
3384 is required to:

3385 (A) capitalize the tangible personal property or product transferred electronically for  
3386 financial reporting purposes; and

3387 (B) account for the lease payments as payments made under a financing arrangement.

3388 (118) "Sales price" means the same as that term is defined in Subsection (104).

3389 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
3390 amounts charged by a school:

3391 (i) sales that are directly related to the school's educational functions or activities  
3392 including:

3393 (A) the sale of:

3394 (I) textbooks;

3395 (II) textbook fees;

3396 (III) laboratory fees;

3397 (IV) laboratory supplies; or

3398 (V) safety equipment;

3399 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
3400 that:

3401 (I) a student is specifically required to wear as a condition of participation in a  
3402 school-related event or school-related activity; and

3403 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
3404 place of ordinary clothing;

3405 (C) sales of the following if the net or gross revenues generated by the sales are  
3406 deposited into a school district fund or school fund dedicated to school meals:

3407 (I) food and food ingredients; or

3408 (II) prepared food; or

3409 (D) transportation charges for official school activities; or

3410 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
3411 event or school-related activity.

3412 (b) "Sales relating to schools" does not include:

3413 (i) bookstore sales of items that are not educational materials or supplies;

3414 (ii) except as provided in Subsection (119)(a)(i)(B):

3415 (A) clothing;

3416 (B) clothing accessories or equipment;

3417 (C) protective equipment; or

3418 (D) sports or recreational equipment; or

3419 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
3420 event or school-related activity if the amounts paid or charged are passed through to a person:

3421 (A) other than a:

3422 (I) school;

3423 (II) nonprofit organization authorized by a school board or a governing body of a  
3424 private school to organize and direct a competitive secondary school activity; or

3425 (III) nonprofit association authorized by a school board or a governing body of a  
3426 private school to organize and direct a competitive secondary school activity; and

3427 (B) that is required to collect sales and use taxes under this chapter.

3428 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3429 commission may make rules defining the term "passed through."

3430 (120) For purposes of this section and Section 59-12-104, "school" means:

3431 (a) an elementary school or a secondary school that:

3432 (i) is a:

3433 (A) public school; or

3434 (B) private school; and

3435 (ii) provides instruction for one or more grades kindergarten through 12; or

3436 (b) a public school district.

3437 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:

3438 (i) tangible personal property;

3439 (ii) a product transferred electronically; or

3440 (iii) a service.

- 3441 (b) "Seller" includes a marketplace facilitator.
- 3442 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
- 3443 means tangible personal property or a product transferred electronically if the tangible personal
- 3444 property or product transferred electronically is:
- 3445 (i) used primarily in the process of:
- 3446 (A) (I) manufacturing a semiconductor;
- 3447 (II) fabricating a semiconductor; or
- 3448 (III) research or development of a:
- 3449 (Aa) semiconductor; or
- 3450 (Bb) semiconductor manufacturing process; or
- 3451 (B) maintaining an environment suitable for a semiconductor; or
- 3452 (ii) consumed primarily in the process of:
- 3453 (A) (I) manufacturing a semiconductor;
- 3454 (II) fabricating a semiconductor; or
- 3455 (III) research or development of a:
- 3456 (Aa) semiconductor; or
- 3457 (Bb) semiconductor manufacturing process; or
- 3458 (B) maintaining an environment suitable for a semiconductor.
- 3459 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3460 includes:
- 3461 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3462 transferred electronically described in Subsection (122)(a); or
- 3463 (ii) a chemical, catalyst, or other material used to:
- 3464 (A) produce or induce in a semiconductor a:
- 3465 (I) chemical change; or
- 3466 (II) physical change;
- 3467 (B) remove impurities from a semiconductor; or
- 3468 (C) improve the marketable condition of a semiconductor.
- 3469 (123) "Senior citizen center" means a facility having the primary purpose of providing
- 3470 services to the aged as defined in Section 62A-3-101.
- 3471 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"

3472 means tangible personal property that:

3473 (i) a business that provides accommodations and services described in Subsection  
3474 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services  
3475 to a purchaser;

3476 (ii) is intended to be consumed by the purchaser; and

3477 (iii) is:

3478 (A) included in the purchase price of the accommodations and services; and

3479 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
3480 to the purchaser.

3481 (b) "Short-term lodging consumable" includes:

3482 (i) a beverage;

3483 (ii) a brush or comb;

3484 (iii) a cosmetic;

3485 (iv) a hair care product;

3486 (v) lotion;

3487 (vi) a magazine;

3488 (vii) makeup;

3489 (viii) a meal;

3490 (ix) mouthwash;

3491 (x) nail polish remover;

3492 (xi) a newspaper;

3493 (xii) a notepad;

3494 (xiii) a pen;

3495 (xiv) a pencil;

3496 (xv) a razor;

3497 (xvi) saline solution;

3498 (xvii) a sewing kit;

3499 (xviii) shaving cream;

3500 (xix) a shoe shine kit;

3501 (xx) a shower cap;

3502 (xxi) a snack item;

3503 (xxii) soap;

3504 (xxiii) toilet paper;

3505 (xxiv) a toothbrush;

3506 (xxv) toothpaste; or

3507 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may

3508 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

3509 Rulemaking Act.

3510 (c) "Short-term lodging consumable" does not include:

3511 (i) tangible personal property that is cleaned or washed to allow the tangible personal

3512 property to be reused; or

3513 (ii) a product transferred electronically.

3514 (125) "Simplified electronic return" means the electronic return:

3515 (a) described in Section 318(C) of the agreement; and

3516 (b) approved by the governing board of the agreement.

3517 (126) "Solar energy" means the sun used as the sole source of energy for producing

3518 electricity.

3519 (127) (a) "Sports or recreational equipment" means an item:

3520 (i) designed for human use; and

3521 (ii) that is:

3522 (A) worn in conjunction with:

3523 (I) an athletic activity; or

3524 (II) a recreational activity; and

3525 (B) not suitable for general use.

3526 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3527 commission shall make rules:

3528 (i) listing the items that constitute "sports or recreational equipment"; and

3529 (ii) that are consistent with the list of items that constitute "sports or recreational

3530 equipment" under the agreement.

3531 (128) "State" means the state of Utah, its departments, and agencies.

3532 (129) "Storage" means any keeping or retention of tangible personal property or any

3533 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except

3534 sale in the regular course of business.

3535 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"

3536 means personal property that:

3537 (i) may be:

3538 (A) seen;

3539 (B) weighed;

3540 (C) measured;

3541 (D) felt; or

3542 (E) touched; or

3543 (ii) is in any manner perceptible to the senses.

3544 (b) "Tangible personal property" includes:

3545 (i) electricity;

3546 (ii) water;

3547 (iii) gas;

3548 (iv) steam; or

3549 (v) prewritten computer software, regardless of the manner in which the prewritten

3550 computer software is transferred.

3551 (c) "Tangible personal property" includes the following regardless of whether the item

3552 is attached to real property:

3553 (i) a dishwasher;

3554 (ii) a dryer;

3555 (iii) a freezer;

3556 (iv) a microwave;

3557 (v) a refrigerator;

3558 (vi) a stove;

3559 (vii) a washer; or

3560 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the

3561 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

3562 Rulemaking Act.

3563 (d) "Tangible personal property" does not include a product that is transferred

3564 electronically.

3565 (e) "Tangible personal property" does not include the following if attached to real  
3566 property, regardless of whether the attachment to real property is only through a line that  
3567 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
3568 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
3569 Rulemaking Act:

- 3570 (i) a hot water heater;
- 3571 (ii) a water filtration system; or
- 3572 (iii) a water softener system.

3573 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
3574 software" means an item listed in Subsection (131)(b) if that item is purchased or leased  
3575 primarily to enable or facilitate one or more of the following to function:

- 3576 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3577 (ii) telecommunications transmission equipment, machinery, or software.

3578 (b) The following apply to Subsection (131)(a):

- 3579 (i) a pole;
- 3580 (ii) software;
- 3581 (iii) a supplementary power supply;
- 3582 (iv) temperature or environmental equipment or machinery;
- 3583 (v) test equipment;
- 3584 (vi) a tower; or
- 3585 (vii) equipment, machinery, or software that functions similarly to an item listed in  
3586 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in  
3587 accordance with Subsection (131)(c).

3588 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3589 commission may by rule define what constitutes equipment, machinery, or software that  
3590 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

3591 (132) "Telecommunications equipment, machinery, or software required for 911  
3592 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
3593 Sec. 20.18.

3594 (133) "Telecommunications maintenance or repair equipment, machinery, or software"  
3595 means equipment, machinery, or software purchased or leased primarily to maintain or repair

3596 one or more of the following, regardless of whether the equipment, machinery, or software is  
3597 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
3598 following:

3599 (a) telecommunications enabling or facilitating equipment, machinery, or software;

3600 (b) telecommunications switching or routing equipment, machinery, or software; or

3601 (c) telecommunications transmission equipment, machinery, or software.

3602 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or  
3603 transmission of audio, data, video, voice, or any other information or signal to a point, or  
3604 among or between points.

3605 (b) "Telecommunications service" includes:

3606 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
3607 processing application is used to act:

3608 (A) on the code, form, or protocol of the content;

3609 (B) for the purpose of electronic conveyance, routing, or transmission; and

3610 (C) regardless of whether the service:

3611 (D) is referred to as voice over Internet protocol service; or

3612 (II) is classified by the Federal Communications Commission as enhanced or value  
3613 added;

3614 (ii) an 800 service;

3615 (iii) a 900 service;

3616 (iv) a fixed wireless service;

3617 (v) a mobile wireless service;

3618 (vi) a postpaid calling service;

3619 (vii) a prepaid calling service;

3620 (viii) a prepaid wireless calling service; or

3621 (ix) a private communications service.

3622 (c) "Telecommunications service" does not include:

3623 (i) advertising, including directory advertising;

3624 (ii) an ancillary service;

3625 (iii) a billing and collection service provided to a third party;

3626 (iv) a data processing and information service if:

- 3627 (A) the data processing and information service allows data to be:  
3628 (I) (Aa) acquired;  
3629 (Bb) generated;  
3630 (Cc) processed;  
3631 (Dd) retrieved; or  
3632 (Ee) stored; and  
3633 (II) delivered by an electronic transmission to a purchaser; and  
3634 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
3635 or information;
- 3636 (v) installation or maintenance of the following on a customer's premises:  
3637 (A) equipment; or  
3638 (B) wiring;
- 3639 (vi) Internet access service;  
3640 (vii) a paging service;  
3641 (viii) a product transferred electronically, including:  
3642 (A) music;  
3643 (B) reading material;  
3644 (C) a ring tone;  
3645 (D) software; or  
3646 (E) video;
- 3647 (ix) a radio and television audio and video programming service:  
3648 (A) regardless of the medium; and  
3649 (B) including:  
3650 (I) furnishing conveyance, routing, or transmission of a television audio and video  
3651 programming service by a programming service provider;  
3652 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or  
3653 (III) audio and video programming services delivered by a commercial mobile radio  
3654 service provider as defined in 47 C.F.R. Sec. 20.3;
- 3655 (x) a value-added nonvoice data service; or  
3656 (xi) tangible personal property.
- 3657 (135) (a) "Telecommunications service provider" means a person that:

- 3658 (i) owns, controls, operates, or manages a telecommunications service; and  
3659 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or  
3660 resale to any person of the telecommunications service.
- 3661 (b) A person described in Subsection (135)(a) is a telecommunications service provider  
3662 whether or not the Public Service Commission of Utah regulates:
- 3663 (i) that person; or  
3664 (ii) the telecommunications service that the person owns, controls, operates, or  
3665 manages.
- 3666 (136) (a) "Telecommunications switching or routing equipment, machinery, or  
3667 software" means an item listed in Subsection (136)(b) if that item is purchased or leased  
3668 primarily for switching or routing:
- 3669 (i) an ancillary service;  
3670 (ii) data communications;  
3671 (iii) voice communications; or  
3672 (iv) telecommunications service.
- 3673 (b) The following apply to Subsection (136)(a):
- 3674 (i) a bridge;  
3675 (ii) a computer;  
3676 (iii) a cross connect;  
3677 (iv) a modem;  
3678 (v) a multiplexer;  
3679 (vi) plug in circuitry;  
3680 (vii) a router;  
3681 (viii) software;  
3682 (ix) a switch; or  
3683 (x) equipment, machinery, or software that functions similarly to an item listed in  
3684 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in  
3685 accordance with Subsection (136)(c).
- 3686 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3687 commission may by rule define what constitutes equipment, machinery, or software that  
3688 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

3689 (137) (a) "Telecommunications transmission equipment, machinery, or software"  
3690 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for  
3691 sending, receiving, or transporting:

- 3692 (i) an ancillary service;
- 3693 (ii) data communications;
- 3694 (iii) voice communications; or
- 3695 (iv) telecommunications service.

3696 (b) The following apply to Subsection (137)(a):

- 3697 (i) an amplifier;
- 3698 (ii) a cable;
- 3699 (iii) a closure;
- 3700 (iv) a conduit;
- 3701 (v) a controller;
- 3702 (vi) a duplexer;
- 3703 (vii) a filter;
- 3704 (viii) an input device;
- 3705 (ix) an input/output device;
- 3706 (x) an insulator;
- 3707 (xi) microwave machinery or equipment;
- 3708 (xii) an oscillator;
- 3709 (xiii) an output device;
- 3710 (xiv) a pedestal;
- 3711 (xv) a power converter;
- 3712 (xvi) a power supply;
- 3713 (xvii) a radio channel;
- 3714 (xviii) a radio receiver;
- 3715 (xix) a radio transmitter;
- 3716 (xx) a repeater;
- 3717 (xxi) software;
- 3718 (xxii) a terminal;
- 3719 (xxiii) a timing unit;

3720 (xxiv) a transformer;

3721 (xxv) a wire; or

3722 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
3723 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in  
3724 accordance with Subsection (137)(c).

3725 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3726 commission may by rule define what constitutes equipment, machinery, or software that  
3727 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

3728 (138) (a) "Textbook for a higher education course" means a textbook or other printed  
3729 material that is required for a course:

3730 (i) offered by an institution of higher education; and

3731 (ii) that the purchaser of the textbook or other printed material attends or will attend.

3732 (b) "Textbook for a higher education course" includes a textbook in electronic format.

3733 (139) "Tobacco" means:

3734 (a) a cigarette;

3735 (b) a cigar;

3736 (c) chewing tobacco;

3737 (d) pipe tobacco; or

3738 (e) any other item that contains tobacco.

3739 (140) "Unassisted amusement device" means an amusement device, skill device, or  
3740 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
3741 the amusement device, skill device, or ride device.

3742 (141) (a) "Use" means the exercise of any right or power over tangible personal  
3743 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
3744 incident to the ownership or the leasing of that tangible personal property, product transferred  
3745 electronically, or service.

3746 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
3747 property, a product transferred electronically, or a service in the regular course of business and  
3748 held for resale.

3749 (142) "Value-added nonvoice data service" means a service:

3750 (a) that otherwise meets the definition of a telecommunications service except that a

3751 computer processing application is used to act primarily for a purpose other than conveyance,  
3752 routing, or transmission; and

3753 (b) with respect to which a computer processing application is used to act on data or  
3754 information:

3755 (i) code;

3756 (ii) content;

3757 (iii) form; or

3758 (iv) protocol.

3759 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are  
3760 required to be titled, registered, or titled and registered:

3761 (i) an aircraft as defined in Section 72-10-102;

3762 (ii) a vehicle as defined in Section 41-1a-102;

3763 (iii) an off-highway vehicle as defined in Section 41-22-2; or

3764 (iv) a vessel as defined in Section 41-1a-102.

3765 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

3766 (i) a vehicle described in Subsection (143)(a); or

3767 (ii) (A) a locomotive;

3768 (B) a freight car;

3769 (C) railroad work equipment; or

3770 (D) other railroad rolling stock.

3771 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
3772 exchanging a vehicle as defined in Subsection (143).

3773 (145) (a) "Vertical service" means an ancillary service that:

3774 (i) is offered in connection with one or more telecommunications services; and

3775 (ii) offers an advanced calling feature that allows a customer to:

3776 (A) identify a caller; and

3777 (B) manage multiple calls and call connections.

3778 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
3779 conference bridging service.

3780 (146) (a) "Voice mail service" means an ancillary service that enables a customer to  
3781 receive, send, or store a recorded message.

3782 (b) "Voice mail service" does not include a vertical service that a customer is required  
3783 to have in order to utilize a voice mail service.

3784 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a  
3785 facility that generates electricity:

3786 (i) using as the primary source of energy waste materials that would be placed in a  
3787 landfill or refuse pit if it were not used to generate electricity, including:

3788 (A) tires;

3789 (B) waste coal;

3790 (C) oil shale; or

3791 (D) municipal solid waste; and

3792 (ii) in amounts greater than actually required for the operation of the facility.

3793 (b) "Waste energy facility" does not include a facility that incinerates:

3794 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

3795 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

3796 (148) "Watercraft" means a vessel as defined in Section 73-18-2.

3797 (149) "Wind energy" means wind used as the sole source of energy to produce  
3798 electricity.

3799 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
3800 location by the United States Postal Service.

3801 Section 33. Section **59-12-103** is amended to read:

3802 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
3803 **tax revenues.**

3804 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or  
3805 sales price for amounts paid or charged for the following transactions:

3806 (a) retail sales of tangible personal property made within the state;

3807 (b) amounts paid for:

3808 (i) telecommunications service, other than mobile telecommunications service, that  
3809 originates and terminates within the boundaries of this state;

3810 (ii) mobile telecommunications service that originates and terminates within the  
3811 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
3812 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

- 3813 (iii) an ancillary service associated with a:
- 3814 (A) telecommunications service described in Subsection (1)(b)(i); or
- 3815 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 3816 (c) sales of the following for commercial use:
- 3817 (i) gas;
- 3818 (ii) electricity;
- 3819 (iii) heat;
- 3820 (iv) coal;
- 3821 (v) fuel oil; or
- 3822 (vi) other fuels;
- 3823 (d) sales of the following for residential use:
- 3824 (i) gas;
- 3825 (ii) electricity;
- 3826 (iii) heat;
- 3827 (iv) coal;
- 3828 (v) fuel oil; or
- 3829 (vi) other fuels;
- 3830 (e) sales of prepared food;
- 3831 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3832 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3833 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3834 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3835 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3836 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3837 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3838 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3839 exhibition, cultural, or athletic activity;
- 3840 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3841 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3842 (i) the tangible personal property; and
- 3843 (ii) parts used in the repairs or renovations of the tangible personal property described

3844 in Subsection (1)(g)(i), regardless of whether:

3845 (A) any parts are actually used in the repairs or renovations of that tangible personal  
3846 property; or

3847 (B) the particular parts used in the repairs or renovations of that tangible personal  
3848 property are exempt from a tax under this chapter;

3849 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
3850 assisted cleaning or washing of tangible personal property;

3851 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
3852 accommodations and services that are regularly rented for less than 30 consecutive days;

3853 (j) amounts paid or charged for laundry or dry cleaning services;

3854 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
3855 this state the tangible personal property is:

3856 (i) stored;

3857 (ii) used; or

3858 (iii) otherwise consumed;

3859 (l) amounts paid or charged for tangible personal property if within this state the  
3860 tangible personal property is:

3861 (i) stored;

3862 (ii) used; or

3863 (iii) consumed; and

3864 (m) amounts paid or charged for a sale:

3865 (i) (A) of a product transferred electronically; or

3866 (B) of a repair or renovation of a product transferred electronically; and

3867 (ii) regardless of whether the sale provides:

3868 (A) a right of permanent use of the product; or

3869 (B) a right to use the product that is less than a permanent use, including a right:

3870 (I) for a definite or specified length of time; and

3871 (II) that terminates upon the occurrence of a condition.

3872 (2) (a) Except as provided in Subsections (2)(b) through [~~(e)~~] (f), a state tax and a local  
3873 tax are imposed on a transaction described in Subsection (1) equal to the sum of:

3874 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3875 ~~[(A) (F) through March 31, 2019, 4.70%; and]~~  
 3876 ~~[(H)]~~ (A) ~~[beginning on April 1, 2019,]~~ 4.70% plus the rate specified in Subsection  
 3877 ~~[(H3)]~~ (12)(a); and

3878 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
 3879 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
 3880 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
 3881 State Sales and Use Tax Act; and

3882 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
 3883 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
 3884 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
 3885 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3886 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
 3887 transaction under this chapter other than this part.

3888 (b) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f) and subject to  
 3889 Subsection (2)~~[(f)]~~(k), a state tax and a local tax are imposed on a transaction described in  
 3890 Subsection (1)(d) equal to the sum of:

3891 (i) a state tax imposed on the transaction at a tax rate of 2%; and  
 3892 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
 3893 transaction under this chapter other than this part.

3894 (c) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local  
 3895 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

3896 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
 3897 a tax rate of 1.75%; and  
 3898 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
 3899 amounts paid or charged for food and food ingredients under this chapter other than this part.

3900 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts  
 3901 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
 3902 a rate of 4.85%.

3903 ~~[(d)]~~ (e) (i) For a bundled transaction that is attributable to food and food ingredients  
 3904 and tangible personal property other than food and food ingredients, a state tax and a local tax  
 3905 is imposed on the entire bundled transaction equal to the sum of:

3906 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3907 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3908 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State

3909 Sales and Use Tax Act, if the location of the transaction as determined under Sections

3910 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,

3911 Additional State Sales and Use Tax Act; and

3912 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State

3913 Sales and Use Tax Act, if the location of the transaction as determined under Sections

3914 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which

3915 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3916 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates

3917 described in Subsection (2)(a)(ii).

3918 (ii) If an optional computer software maintenance contract is a bundled transaction that

3919 consists of taxable and nontaxable products that are not separately itemized on an invoice or

3920 similar billing document, the purchase of the optional computer software maintenance contract

3921 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3922 (iii) Subject to Subsection (2)~~(d)~~(e)(iv), for a bundled transaction other than a

3923 bundled transaction described in Subsection (2)~~(d)~~(e)(i) or (ii):

3924 (A) if the sales price of the bundled transaction is attributable to tangible personal

3925 property, a product, or a service that is subject to taxation under this chapter and tangible

3926 personal property, a product, or service that is not subject to taxation under this chapter, the

3927 entire bundled transaction is subject to taxation under this chapter unless:

3928 (I) the seller is able to identify by reasonable and verifiable standards the tangible

3929 personal property, product, or service that is not subject to taxation under this chapter from the

3930 books and records the seller keeps in the seller's regular course of business; or

3931 (II) state or federal law provides otherwise; or

3932 (B) if the sales price of a bundled transaction is attributable to two or more items of

3933 tangible personal property, products, or services that are subject to taxation under this chapter

3934 at different rates, the entire bundled transaction is subject to taxation under this chapter at the

3935 higher tax rate unless:

3936 (I) the seller is able to identify by reasonable and verifiable standards the tangible

3937 personal property, product, or service that is subject to taxation under this chapter at the lower  
3938 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3939 (II) state or federal law provides otherwise.

3940 (iv) For purposes of Subsection (2)~~(c)~~(e)(iii), books and records that a seller keeps in  
3941 the seller's regular course of business includes books and records the seller keeps in the regular  
3942 course of business for nontax purposes.

3943 ~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections  
3944 (2)~~(e)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal  
3945 property, a product, or a service that is subject to taxation under this chapter, and the sale,  
3946 lease, or rental of tangible personal property, other property, a product, or a service that is not  
3947 subject to taxation under this chapter, the entire transaction is subject to taxation under this  
3948 chapter unless the seller, at the time of the transaction:

3949 (A) separately states the portion of the transaction that is not subject to taxation under  
3950 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3951 (B) is able to identify by reasonable and verifiable standards, from the books and  
3952 records the seller keeps in the seller's regular course of business, the portion of the transaction  
3953 that is not subject to taxation under this chapter.

3954 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3955 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
3956 the transaction that is not subject to taxation under this chapter was not separately stated on an  
3957 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
3958 ignorance of the law; and

3959 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
3960 and records the seller keeps in the seller's regular course of business, the portion of the  
3961 transaction that is not subject to taxation under this chapter.

3962 (iii) For purposes of Subsections (2)~~(e)~~(f)(i) and (ii), books and records that a seller  
3963 keeps in the seller's regular course of business includes books and records the seller keeps in  
3964 the regular course of business for nontax purposes.

3965 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of  
3966 tangible personal property, products, or services that are subject to taxation under this chapter  
3967 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax

3968 rate unless the seller, at the time of the transaction:

3969 (A) separately states the items subject to taxation under this chapter at each of the  
3970 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3971 (B) is able to identify by reasonable and verifiable standards the tangible personal  
3972 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
3973 from the books and records the seller keeps in the seller's regular course of business.

3974 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in  
3975 the seller's regular course of business includes books and records the seller keeps in the regular  
3976 course of business for nontax purposes.

3977 ~~(g)~~ (h) Subject to Subsections ~~(2)(h) and (i)~~ (2)(i) and (j), a tax rate repeal or tax  
3978 rate change for a tax rate imposed under the following shall take effect on the first day of a  
3979 calendar quarter:

3980 (i) Subsection (2)(a)(i)(A);

3981 (ii) Subsection (2)(b)(i);

3982 (iii) Subsection (2)(c)(i); or

3983 (iv) Subsection (2)~~(d)~~(e)(i)(A)(I).

3984 ~~(h)~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that  
3985 begins on or after the effective date of the tax rate increase if the billing period for the  
3986 transaction begins before the effective date of a tax rate increase imposed under:

3987 (A) Subsection (2)(a)(i)(A);

3988 (B) Subsection (2)(b)(i);

3989 (C) Subsection (2)(c)(i); or

3990 (D) Subsection (2)~~(d)~~(e)(i)(A)(I).

3991 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
3992 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
3993 or the tax rate decrease imposed under:

3994 (A) Subsection (2)(a)(i)(A);

3995 (B) Subsection (2)(b)(i);

3996 (C) Subsection (2)(c)(i); or

3997 (D) Subsection (2)~~(d)~~(e)(i)(A)(I).

3998 ~~(i)~~ (j) (i) For a tax rate described in Subsection (2)~~(i)~~(j)(ii), if a tax due on a

3999 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a  
4000 tax rate repeal or change in a tax rate takes effect:

4001 (A) on the first day of a calendar quarter; and  
4002 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

4003 (ii) Subsection (2)[~~(j)~~](i) applies to the tax rates described in the following:

4004 (A) Subsection (2)(a)(i)(A);

4005 (B) Subsection (2)(b)(i);

4006 (C) Subsection (2)(c)(i); or

4007 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).

4008 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4009 the commission may by rule define the term "catalogue sale."

4010 [~~(j)~~] (k) (i) For a location described in Subsection (2)[~~(j)~~](k)(ii), the commission shall  
4011 determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based  
4012 on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

4013 (ii) Subsection (2)[~~(j)~~](k)(i) applies to a location where gas, electricity, heat, coal, fuel  
4014 oil, or other fuel is furnished through a single meter for two or more of the following uses:

4015 (A) a commercial use;

4016 (B) an industrial use; or

4017 (C) a residential use.

4018 (3) (a) The following state taxes shall be deposited into the General Fund:

4019 (i) the tax imposed by Subsection (2)(a)(i)(A);

4020 (ii) the tax imposed by Subsection (2)(b)(i);

4021 (iii) the tax imposed by Subsection (2)(c)(i); [~~or~~] and

4022 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I).

4023 (b) The following local taxes shall be distributed to a county, city, or town as provided  
4024 in this chapter:

4025 (i) the tax imposed by Subsection (2)(a)(ii);

4026 (ii) the tax imposed by Subsection (2)(b)(ii);

4027 (iii) the tax imposed by Subsection (2)(c)(ii); and

4028 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(B).

4029 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General

4030 Fund.

4031 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4032 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
4033 through (g):

4034 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

4035 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

4036 (B) for the fiscal year; or

4037 (ii) \$17,500,000.

4038 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
4039 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
4040 Department of Natural Resources to:

4041 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
4042 protect sensitive plant and animal species; or

4043 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
4044 act, to political subdivisions of the state to implement the measures described in Subsections  
4045 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4046 (ii) Money transferred to the Department of Natural Resources under Subsection  
4047 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
4048 person to list or attempt to have listed a species as threatened or endangered under the  
4049 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4050 (iii) At the end of each fiscal year:

4051 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
4052 Conservation and Development Fund created in Section 73-10-24;

4053 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
4054 Program Subaccount created in Section 73-10c-5; and

4055 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
4056 Program Subaccount created in Section 73-10c-5.

4057 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
4058 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
4059 created in Section 4-18-106.

4060 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

4061 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
4062 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
4063 water rights.

4064 (ii) At the end of each fiscal year:

4065 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
4066 Conservation and Development Fund created in Section 73-10-24;

4067 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
4068 Program Subaccount created in Section 73-10c-5; and

4069 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
4070 Program Subaccount created in Section 73-10c-5.

4071 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
4072 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and  
4073 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4074 (ii) In addition to the uses allowed of the Water Resources Conservation and  
4075 Development Fund under Section 73-10-24, the Water Resources Conservation and  
4076 Development Fund may also be used to:

4077 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
4078 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
4079 quantifying surface and ground water resources and describing the hydrologic systems of an  
4080 area in sufficient detail so as to enable local and state resource managers to plan for and  
4081 accommodate growth in water use without jeopardizing the resource;

4082 (B) fund state required dam safety improvements; and

4083 (C) protect the state's interest in interstate water compact allocations, including the  
4084 hiring of technical and legal staff.

4085 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4086 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
4087 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4088 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4089 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
4090 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4091 (i) provide for the installation and repair of collection, treatment, storage, and

4092 distribution facilities for any public water system, as defined in Section 19-4-102;

4093 (ii) develop underground sources of water, including springs and wells; and

4094 (iii) develop surface water sources.

4095 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

4096 2006, the difference between the following amounts shall be expended as provided in this

4097 Subsection (5), if that difference is greater than \$1:

4098 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the

4099 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4100 (ii) \$17,500,000.

4101 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4102 (A) transferred each fiscal year to the Department of Natural Resources as dedicated

4103 credits; and

4104 (B) expended by the Department of Natural Resources for watershed rehabilitation or

4105 restoration.

4106 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

4107 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund

4108 created in Section 73-10-24.

4109 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the

4110 remaining difference described in Subsection (5)(a) shall be:

4111 (A) transferred each fiscal year to the Division of Water Resources as dedicated

4112 credits; and

4113 (B) expended by the Division of Water Resources for cloud-seeding projects

4114 authorized by Title 73, Chapter 15, Modification of Weather.

4115 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

4116 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund

4117 created in Section 73-10-24.

4118 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the

4119 remaining difference described in Subsection (5)(a) shall be deposited into the Water

4120 Resources Conservation and Development Fund created in Section 73-10-24 for use by the

4121 Division of Water Resources for:

4122 (i) preconstruction costs:

4123 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
4124 26, Bear River Development Act; and

4125 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
4126 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4127 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
4128 Chapter 26, Bear River Development Act;

4129 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
4130 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4131 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
4132 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4133 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
4134 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be  
4135 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
4136 incurred for employing additional technical staff for the administration of water rights.

4137 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
4138 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
4139 Fund created in Section 73-10-24.

4140 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the  
4141 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection  
4142 (1) for the fiscal year shall be deposited as follows:

4143 [~~(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)~~  
4144 ~~shall be deposited into the Transportation Investment Fund of 2005 created by Section~~  
4145 ~~72-2-124;]~~

4146 [~~(b) for fiscal year 2017-18 only:]~~

4147 [~~(i) 80% of the revenue described in this Subsection (6) shall be deposited into the~~  
4148 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4149 [~~(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the~~  
4150 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4151 [~~(c) for fiscal year 2018-19 only:]~~

4152 [~~(i) 60% of the revenue described in this Subsection (6) shall be deposited into the~~  
4153 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4154 ~~[(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the~~  
4155 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4156 ~~[(d) for fiscal year 2019-20 only:]~~

4157 ~~[(i) 40% of the revenue described in this Subsection (6) shall be deposited into the~~  
4158 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4159 ~~[(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the~~  
4160 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4161 ~~[(e)]~~ (a) for fiscal year 2020-21 only:

4162 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
4163 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4164 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
4165 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4166 ~~[(f)]~~ (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue  
4167 described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted  
4168 Account created by Section 73-10g-103.

4169 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
4170 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
4171 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
4172 created by Section 72-2-124:

4173 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
4174 the revenues collected from the following taxes, which represents a portion of the  
4175 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
4176 on vehicles and vehicle-related products:

4177 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4178 (B) the tax imposed by Subsection (2)(b)(i);

4179 (C) the tax imposed by Subsection (2)(c)(i); and

4180 (D) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I); plus

4181 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
4182 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
4183 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
4184 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4185 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
4186 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
4187 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)  
4188 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
4189 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
4190 (7)(a) equal to the product of:

4191 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
4192 previous fiscal year; and

4193 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
4194 (7)(a)(i)(A) through (D) in the current fiscal year.

4195 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
4196 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes  
4197 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of  
4198 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in  
4199 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

4200 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected  
4201 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited  
4202 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues  
4203 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the  
4204 current fiscal year under Subsection (7)(a).

4205 ~~[(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~  
4206 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~  
4207 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~  
4208 ~~the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4209 ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~  
4210 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~  
4211 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~  
4212 ~~Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4213 ~~[(c)(i)]~~ (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited  
4214 under Subsections (6) and (7), and subject to Subsection ~~[(8)(c)(ii)]~~ (8)(b), for a fiscal year  
4215 beginning on or after July 1, 2018, the commission shall annually deposit into the

4216 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
 4217 listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the  
 4218 following taxes:

4219 ~~[(A)]~~ (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4220 ~~[(B)]~~ (ii) the tax imposed by Subsection (2)(b)(i);

4221 ~~[(C)]~~ (iii) the tax imposed by Subsection (2)(c)(i); and

4222 ~~[(D)]~~ (iv) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I).

4223 ~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall  
 4224 annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection  
 4225 ~~[(8)(c)(i)]~~ (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the  
 4226 current fiscal year by the portion of the tax imposed on motor and special fuel that is sold,  
 4227 used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

4228 ~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection  
 4229 ~~[(8)(c)(i)]~~ (8)(b) into the Transit and Transportation Investment Fund created in Section  
 4230 72-2-124.

4231 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
 4232 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
 4233 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4234 ~~[(10)(a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),~~  
 4235 ~~in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17~~  
 4236 ~~fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund~~  
 4237 ~~of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on~~  
 4238 ~~the transactions described in Subsection (1).]~~

4239 ~~[(b)]~~ (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection  
 4240 (10)~~[(c)]~~(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the  
 4241 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by  
 4242 Section 72-2-124 the amount of revenue described as follows:

4243 ~~[(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%~~  
 4244 ~~tax rate on the transactions described in Subsection (1).]~~

4245 ~~[(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a~~  
 4246 ~~.05% tax rate on the transactions described in Subsection (1).]~~

4247 ~~[(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%~~  
 4248 ~~tax rate on the transactions described in Subsection (1);]~~

4249 ~~[(iv)]~~ (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a  
 4250 .05% tax rate on the transactions described in Subsection (1); and

4251 ~~[(v)]~~ (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a  
 4252 .05% tax rate on the transactions described in Subsection (1).

4253 ~~[(c)]~~ (b) For purposes of ~~[Subsections (10)(a) and (b)]~~ Subsection (10)(a), the Division  
 4254 of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue  
 4255 generated by amounts paid or charged for food and food ingredients, except for tax revenue  
 4256 generated by a bundled transaction attributable to food and food ingredients and tangible  
 4257 personal property other than food and food ingredients described in Subsection (2)~~[(d)]~~(e).

4258 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
 4259 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that  
 4260 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of  
 4261 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue  
 4262 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,  
 4263 created in Section 63N-2-512.

4264 ~~[(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~  
 4265 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~  
 4266 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~  
 4267 ~~35A-8-308.]~~

4268 ~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~  
 4269 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~  
 4270 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

4271 ~~[(13)]~~ (12) (a) The rate specified in this subsection is 0.15%.

4272 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[(i) on or before~~  
 4273 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~  
 4274 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~  
 4275 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~  
 4276 ~~Medicaid Expansion Fund created in Section 26-36b-208; and (ii)]~~, for a fiscal year beginning  
 4277 on or after July 1, 2019, annually transfer the amount of revenue collected from the rate

4278 described in Subsection [~~(13)~~] (12)(a) on the transactions that are subject to the sales and use  
4279 tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section  
4280 26-36b-208.

4281 [~~(14)~~] (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with  
4282 fiscal year 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a  
4283 dedicated credit solely for use of the Search and Rescue Financial Assistance Program created  
4284 in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

4285 [~~(15)~~] (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of  
4286 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation  
4287 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

4288 (b) If the total revenue deposited into the Transportation Investment Fund of 2005  
4289 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of  
4290 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of  
4291 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

4292 Section 34. Section **59-12-104** is amended to read:

4293 **59-12-104. Exemptions.**

4294 Exemptions from the taxes imposed by this chapter are as follows:

4295 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
4296 under Chapter 13, Motor and Special Fuel Tax Act;

4297 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
4298 subdivisions; however, this exemption does not apply to sales of:

4299 (a) construction materials except:

4300 (i) construction materials purchased by or on behalf of institutions of the public  
4301 education system as defined in Utah Constitution, Article X, Section 2, provided the  
4302 construction materials are clearly identified and segregated and installed or converted to real  
4303 property which is owned by institutions of the public education system; and

4304 (ii) construction materials purchased by the state, its institutions, or its political  
4305 subdivisions which are installed or converted to real property by employees of the state, its  
4306 institutions, or its political subdivisions; or

4307 (b) tangible personal property in connection with the construction, operation,  
4308 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities

- 4309 providing additional project capacity, as defined in Section 11-13-103;
- 4310 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 4311 (i) the proceeds of each sale do not exceed \$1; and
- 4312 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 4313 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 4314 (b) Subsection (3)(a) applies to:
- 4315 (i) food and food ingredients; or
- 4316 (ii) prepared food;
- 4317 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 4318 (i) alcoholic beverages;
- 4319 (ii) food and food ingredients; or
- 4320 (iii) prepared food;
- 4321 (b) sales of tangible personal property or a product transferred electronically:
- 4322 (i) to a passenger;
- 4323 (ii) by a commercial airline carrier; and
- 4324 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 4325 (c) services related to Subsection (4)(a) or (b);
- 4326 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 4327 and equipment:
- 4328 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 4329 North American Industry Classification System of the federal Executive Office of the
- 4330 President, Office of Management and Budget; and
- 4331 (II) for:
- 4332 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 4333 equipment in the aircraft;
- 4334 (Bb) renovation of an aircraft; or
- 4335 (Cc) repair of an aircraft; or
- 4336 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 4337 commerce; or
- 4338 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 4339 aircraft operated by a common carrier in interstate or foreign commerce; and

4340 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
4341 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
4342 refund:

4343 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

4344 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

4345 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for  
4346 the sale prior to filing for the refund;

4347 (iv) for sales and use taxes paid under this chapter on the sale;

4348 (v) in accordance with Section 59-1-1410; and

4349 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
4350 the person files for the refund on or before September 30, 2011;

4351 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
4352 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
4353 exhibitor, distributor, or commercial television or radio broadcaster;

4354 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of  
4355 cleaning or washing of tangible personal property if the cleaning or washing of the tangible  
4356 personal property is not assisted cleaning or washing of tangible personal property;

4357 (b) if a seller that sells at the same business location assisted cleaning or washing of  
4358 tangible personal property and cleaning or washing of tangible personal property that is not  
4359 assisted cleaning or washing of tangible personal property, the exemption described in  
4360 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
4361 or washing of the tangible personal property; and

4362 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
4363 Utah Administrative Rulemaking Act, the commission may make rules:

4364 (i) governing the circumstances under which sales are at the same business location;  
4365 and

4366 (ii) establishing the procedures and requirements for a seller to separately account for  
4367 sales of assisted cleaning or washing of tangible personal property;

4368 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
4369 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
4370 fulfilled;

- 4371 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
4372 this state if the vehicle is:
- 4373 (a) not registered in this state; and  
4374 (b) (i) not used in this state; or  
4375 (ii) used in this state:
- 4376 (A) if the vehicle is not used to conduct business, for a time period that does not  
4377 exceed the longer of:
- 4378 (I) 30 days in any calendar year; or  
4379 (II) the time period necessary to transport the vehicle to the borders of this state; or  
4380 (B) if the vehicle is used to conduct business, for the time period necessary to transport  
4381 the vehicle to the borders of this state;
- 4382 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 4383 (i) the item is intended for human use; and  
4384 (ii) (A) a prescription was issued for the item; or  
4385 (B) the item was purchased by a hospital or other medical facility; and  
4386 (b) (i) Subsection (10)(a) applies to:
- 4387 (A) a drug;  
4388 (B) a syringe; or  
4389 (C) a stoma supply; and  
4390 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4391 commission may by rule define the terms:
- 4392 (A) "syringe"; or  
4393 (B) "stoma supply";
- 4394 (11) purchases or leases exempt under Section 19-12-201;
- 4395 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 4396 (i) the following if the item described in Subsection (12)(c) is not available to the  
4397 general public:
- 4398 (A) a church; or  
4399 (B) a charitable institution; or  
4400 (ii) an institution of higher education if:  
4401 (A) the item described in Subsection (12)(c) is not available to the general public; or

4402 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
4403 offered by the institution of higher education; or  
4404 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
4405 (i) a medical facility; or  
4406 (ii) a nursing facility; and  
4407 (c) Subsections (12)(a) and (b) apply to:  
4408 (i) food and food ingredients;  
4409 (ii) prepared food; or  
4410 (iii) alcoholic beverages;  
4411 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
4412 or a product transferred electronically by a person:  
4413 (i) regardless of the number of transactions involving the sale of that tangible personal  
4414 property or product transferred electronically by that person; and  
4415 (ii) not regularly engaged in the business of selling that type of tangible personal  
4416 property or product transferred electronically;  
4417 (b) this Subsection (13) does not apply if:  
4418 (i) the sale is one of a series of sales of a character to indicate that the person is  
4419 regularly engaged in the business of selling that type of tangible personal property or product  
4420 transferred electronically;  
4421 (ii) the person holds that person out as regularly engaged in the business of selling that  
4422 type of tangible personal property or product transferred electronically;  
4423 (iii) the person sells an item of tangible personal property or product transferred  
4424 electronically that the person purchased as a sale that is exempt under Subsection (25); or  
4425 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
4426 this state in which case the tax is based upon:  
4427 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
4428 sold; or  
4429 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
4430 value of the vehicle or vessel being sold at the time of the sale as determined by the  
4431 commission; and  
4432 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4433 commission shall make rules establishing the circumstances under which:

4434 (i) a person is regularly engaged in the business of selling a type of tangible personal  
4435 property or product transferred electronically;

4436 (ii) a sale of tangible personal property or a product transferred electronically is one of  
4437 a series of sales of a character to indicate that a person is regularly engaged in the business of  
4438 selling that type of tangible personal property or product transferred electronically; or

4439 (iii) a person holds that person out as regularly engaged in the business of selling a type  
4440 of tangible personal property or product transferred electronically;

4441 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
4442 operating repair or replacement parts, or materials, except for office equipment or office  
4443 supplies, by:

4444 (a) a manufacturing facility that:

4445 (i) is located in the state; and

4446 (ii) uses or consumes the machinery, equipment, normal operating repair or  
4447 replacement parts, or materials:

4448 (A) in the manufacturing process to manufacture an item sold as tangible personal  
4449 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
4450 Utah Administrative Rulemaking Act; or

4451 (B) for a scrap recycler, to process an item sold as tangible personal property, as the  
4452 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
4453 Administrative Rulemaking Act;

4454 (b) an establishment, as the commission defines that term in accordance with Title  
4455 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4456 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
4457 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
4458 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
4459 2002 North American Industry Classification System of the federal Executive Office of the  
4460 President, Office of Management and Budget;

4461 (ii) is located in the state; and

4462 (iii) uses or consumes the machinery, equipment, normal operating repair or  
4463 replacement parts, or materials in:

4464 (A) the production process to produce an item sold as tangible personal property, as the  
4465 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
4466 Administrative Rulemaking Act;

4467 (B) research and development, as the commission may define that phrase in accordance  
4468 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4469 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
4470 produced from mining;

4471 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
4472 mining; or

4473 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

4474 (c) an establishment, as the commission defines that term in accordance with Title 63G,  
4475 Chapter 3, Utah Administrative Rulemaking Act, that:

4476 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
4477 American Industry Classification System of the federal Executive Office of the President,  
4478 Office of Management and Budget;

4479 (ii) is located in the state; and

4480 (iii) uses or consumes the machinery, equipment, normal operating repair or  
4481 replacement parts, or materials in the operation of the web search portal;

4482 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

4483 (i) tooling;

4484 (ii) special tooling;

4485 (iii) support equipment;

4486 (iv) special test equipment; or

4487 (v) parts used in the repairs or renovations of tooling or equipment described in  
4488 Subsections (15)(a)(i) through (iv); and

4489 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

4490 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
4491 performance of any aerospace or electronics industry contract with the United States  
4492 government or any subcontract under that contract; and

4493 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
4494 title to the tooling, equipment, or parts is vested in the United States government as evidenced

4495 by:

4496 (A) a government identification tag placed on the tooling, equipment, or parts; or

4497 (B) listing on a government-approved property record if placing a government  
4498 identification tag on the tooling, equipment, or parts is impractical;

4499 (16) sales of newspapers or newspaper subscriptions;

4500 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
4501 product transferred electronically traded in as full or part payment of the purchase price, except  
4502 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
4503 trade-ins are limited to other vehicles only, and the tax is based upon:

4504 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
4505 vehicle being traded in; or

4506 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
4507 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
4508 commission; and

4509 (b) Subsection (17)(a) does not apply to the following items of tangible personal  
4510 property or products transferred electronically traded in as full or part payment of the purchase  
4511 price:

4512 (i) money;

4513 (ii) electricity;

4514 (iii) water;

4515 (iv) gas; or

4516 (v) steam;

4517 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
4518 or a product transferred electronically used or consumed primarily and directly in farming  
4519 operations, regardless of whether the tangible personal property or product transferred  
4520 electronically:

4521 (A) becomes part of real estate; or

4522 (B) is installed by a:

4523 (I) farmer;

4524 (II) contractor; or

4525 (III) subcontractor; or

4526 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
4527 product transferred electronically if the tangible personal property or product transferred  
4528 electronically is exempt under Subsection (18)(a)(i); and

4529 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
4530 chapter:

4531 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or  
4532 supplies if used in a manner that is incidental to farming; and

4533 (B) tangible personal property that is considered to be used in a manner that is  
4534 incidental to farming includes:

4535 (I) hand tools; or

4536 (II) maintenance and janitorial equipment and supplies;

4537 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
4538 transferred electronically if the tangible personal property or product transferred electronically  
4539 is used in an activity other than farming; and

4540 (B) tangible personal property or a product transferred electronically that is considered  
4541 to be used in an activity other than farming includes:

4542 (I) office equipment and supplies; or

4543 (II) equipment and supplies used in:

4544 (Aa) the sale or distribution of farm products;

4545 (Bb) research; or

4546 (Cc) transportation; or

4547 (iii) a vehicle required to be registered by the laws of this state during the period  
4548 ending two years after the date of the vehicle's purchase;

4549 (19) sales of hay;

4550 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
4551 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
4552 garden, farm, or other agricultural produce is sold by:

4553 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
4554 agricultural produce;

4555 (b) an employee of the producer described in Subsection (20)(a); or

4556 (c) a member of the immediate family of the producer described in Subsection (20)(a);

4557 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
4558 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

4559 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
4560 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
4561 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
4562 manufacturer, processor, wholesaler, or retailer;

4563 (23) a product stored in the state for resale;

4564 (24) (a) purchases of a product if:

4565 (i) the product is:

4566 (A) purchased outside of this state;

4567 (B) brought into this state:

4568 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

4569 (II) by a nonresident person who is not living or working in this state at the time of the  
4570 purchase;

4571 (C) used for the personal use or enjoyment of the nonresident person described in  
4572 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

4573 (D) not used in conducting business in this state; and

4574 (ii) for:

4575 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
4576 the product for a purpose for which the product is designed occurs outside of this state;

4577 (B) a boat, the boat is registered outside of this state; or

4578 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
4579 outside of this state;

4580 (b) the exemption provided for in Subsection (24)(a) does not apply to:

4581 (i) a lease or rental of a product; or

4582 (ii) a sale of a vehicle exempt under Subsection (33); and

4583 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
4584 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
4585 following:

4586 (i) conducting business in this state if that phrase has the same meaning in this  
4587 Subsection (24) as in Subsection (63);

- 4588 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
4589 as in Subsection (63); or
- 4590 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
4591 this Subsection (24) as in Subsection (63);
- 4592 (25) a product purchased for resale in the regular course of business, either in its  
4593 original form or as an ingredient or component part of a manufactured or compounded product;
- 4594 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
4595 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
4596 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
4597 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
4598 Act;
- 4599 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
4600 person for use in compounding a service taxable under the subsections;
- 4601 (28) purchases made in accordance with the special supplemental nutrition program for  
4602 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 4603 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
4604 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
4605 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
4606 the President, Office of Management and Budget;
- 4607 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
4608 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 4609 (a) not registered in this state; and
- 4610 (b) (i) not used in this state; or
- 4611 (ii) used in this state:
- 4612 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
4613 time period that does not exceed the longer of:
- 4614 (I) 30 days in any calendar year; or
- 4615 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
4616 the borders of this state; or
- 4617 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
4618 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

- 4619 state;
- 4620 (31) sales of aircraft manufactured in Utah;
- 4621 (32) amounts paid for the purchase of telecommunications service for purposes of
- 4622 providing telecommunications service;
- 4623 (33) sales, leases, or uses of the following:
- 4624 (a) a vehicle by an authorized carrier; or
- 4625 (b) tangible personal property that is installed on a vehicle:
- 4626 (i) sold or leased to or used by an authorized carrier; and
- 4627 (ii) before the vehicle is placed in service for the first time;
- 4628 (34) (a) 45% of the sales price of any new manufactured home; and
- 4629 (b) 100% of the sales price of any used manufactured home;
- 4630 (35) sales relating to schools and fundraising sales;
- 4631 (36) sales or rentals of durable medical equipment if:
- 4632 (a) a person presents a prescription for the durable medical equipment; and
- 4633 (b) the durable medical equipment is used for home use only;
- 4634 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 4635 Section 72-11-102; and
- 4636 (b) the commission shall by rule determine the method for calculating sales exempt
- 4637 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 4638 (38) sales to a ski resort of:
- 4639 (a) snowmaking equipment;
- 4640 (b) ski slope grooming equipment;
- 4641 (c) passenger ropeways as defined in Section 72-11-102; or
- 4642 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 4643 described in Subsections (38)(a) through (c);
- 4644 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,
- 4645 fuel oil, or other fuels for industrial use;
- 4646 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 4647 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 4648 59-12-102;
- 4649 (b) if a seller that sells or rents at the same business location the right to use or operate

4650 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
4651 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
4652 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
4653 amusement, entertainment, or recreation for the assisted amusement devices; and

4654 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
4655 Utah Administrative Rulemaking Act, the commission may make rules:

4656 (i) governing the circumstances under which sales are at the same business location;  
4657 and

4658 (ii) establishing the procedures and requirements for a seller to separately account for  
4659 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
4660 assisted amusement devices;

4661 (41) (a) sales of photocopies by:

4662 (i) a governmental entity; or

4663 (ii) an entity within the state system of public education, including:

4664 (A) a school; or

4665 (B) the State Board of Education; or

4666 (b) sales of publications by a governmental entity;

4667 (42) amounts paid for admission to an athletic event at an institution of higher  
4668 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
4669 20 U.S.C. Sec. 1681 et seq.;

4670 (43) (a) sales made to or by:

4671 (i) an area agency on aging; or

4672 (ii) a senior citizen center owned by a county, city, or town; or

4673 (b) sales made by a senior citizen center that contracts with an area agency on aging;

4674 (44) sales or leases of semiconductor fabricating, processing, research, or development  
4675 materials regardless of whether the semiconductor fabricating, processing, research, or  
4676 development materials:

4677 (a) actually come into contact with a semiconductor; or

4678 (b) ultimately become incorporated into real property;

4679 (45) an amount paid by or charged to a purchaser for accommodations and services  
4680 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

- 4681 59-12-104.2;
- 4682 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
4683 sports event registration certificate in accordance with Section 41-3-306 for the event period  
4684 specified on the temporary sports event registration certificate;
- 4685 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff  
4686 adopted by the Public Service Commission only for purchase of electricity produced from a  
4687 new alternative energy source built after January 1, 2016, as designated in the tariff by the  
4688 Public Service Commission; and
- 4689 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies  
4690 only to the portion of the tariff rate a customer pays under the tariff described in Subsection  
4691 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the  
4692 customer would have paid absent the tariff;
- 4693 (48) sales or rentals of mobility enhancing equipment if a person presents a  
4694 prescription for the mobility enhancing equipment;
- 4695 (49) sales of water in a:
- 4696 (a) pipe;
- 4697 (b) conduit;
- 4698 (c) ditch; or
- 4699 (d) reservoir;
- 4700 (50) sales of currency or coins that constitute legal tender of a state, the United States,  
4701 or a foreign nation;
- 4702 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 4703 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and  
4704 (ii) has a gold, silver, or platinum content of 50% or more; and
- 4705 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 4706 (i) ingot;
- 4707 (ii) bar;
- 4708 (iii) medallion; or
- 4709 (iv) decorative coin;
- 4710 (52) amounts paid on a sale-leaseback transaction;
- 4711 (53) sales of a prosthetic device:

- 4712 (a) for use on or in a human; and
- 4713 (b) (i) for which a prescription is required; or
- 4714 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 4715 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 4716 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 4717 or equipment is primarily used in the production or postproduction of the following media for
- 4718 commercial distribution:
- 4719 (i) a motion picture;
- 4720 (ii) a television program;
- 4721 (iii) a movie made for television;
- 4722 (iv) a music video;
- 4723 (v) a commercial;
- 4724 (vi) a documentary; or
- 4725 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 4726 commission by administrative rule made in accordance with Subsection (54)(d); or
- 4727 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 4728 described in Subsection (54)(c) that is used for the production or postproduction of the
- 4729 following are subject to the taxes imposed by this chapter:
- 4730 (i) a live musical performance;
- 4731 (ii) a live news program; or
- 4732 (iii) a live sporting event;
- 4733 (c) the following establishments listed in the 1997 North American Industry
- 4734 Classification System of the federal Executive Office of the President, Office of Management
- 4735 and Budget, apply to Subsections (54)(a) and (b):
- 4736 (i) NAICS Code 512110; or
- 4737 (ii) NAICS Code 51219; and
- 4738 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4739 commission may by rule:
- 4740 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 4741 or
- 4742 (ii) define:

- 4743 (A) "commercial distribution";
- 4744 (B) "live musical performance";
- 4745 (C) "live news program"; or
- 4746 (D) "live sporting event";
- 4747 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 4748 on or before June 30, 2027, of tangible personal property that:
- 4749 (i) is leased or purchased for or by a facility that:
- 4750 (A) is an alternative energy electricity production facility;
- 4751 (B) is located in the state; and
- 4752 (C) (I) becomes operational on or after July 1, 2004; or
- 4753 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 4754 2004, as a result of the use of the tangible personal property;
- 4755 (ii) has an economic life of five or more years; and
- 4756 (iii) is used to make the facility or the increase in capacity of the facility described in
- 4757 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 4758 transmission grid including:
- 4759 (A) a wind turbine;
- 4760 (B) generating equipment;
- 4761 (C) a control and monitoring system;
- 4762 (D) a power line;
- 4763 (E) substation equipment;
- 4764 (F) lighting;
- 4765 (G) fencing;
- 4766 (H) pipes; or
- 4767 (I) other equipment used for locating a power line or pole; and
- 4768 (b) this Subsection (55) does not apply to:
- 4769 (i) tangible personal property used in construction of:
- 4770 (A) a new alternative energy electricity production facility; or
- 4771 (B) the increase in the capacity of an alternative energy electricity production facility;
- 4772 (ii) contracted services required for construction and routine maintenance activities;
- 4773 and

4774 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
4775 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or  
4776 acquired after:

4777 (A) the alternative energy electricity production facility described in Subsection  
4778 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

4779 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described  
4780 in Subsection (55)(a)(iii);

4781 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
4782 on or before June 30, 2027, of tangible personal property that:

4783 (i) is leased or purchased for or by a facility that:

4784 (A) is a waste energy production facility;

4785 (B) is located in the state; and

4786 (C) (I) becomes operational on or after July 1, 2004; or

4787 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
4788 2004, as a result of the use of the tangible personal property;

4789 (ii) has an economic life of five or more years; and

4790 (iii) is used to make the facility or the increase in capacity of the facility described in  
4791 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
4792 transmission grid including:

4793 (A) generating equipment;

4794 (B) a control and monitoring system;

4795 (C) a power line;

4796 (D) substation equipment;

4797 (E) lighting;

4798 (F) fencing;

4799 (G) pipes; or

4800 (H) other equipment used for locating a power line or pole; and

4801 (b) this Subsection (56) does not apply to:

4802 (i) tangible personal property used in construction of:

4803 (A) a new waste energy facility; or

4804 (B) the increase in the capacity of a waste energy facility;

4805 (ii) contracted services required for construction and routine maintenance activities;  
4806 and  
4807 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
4808 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:  
4809 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
4810 described in Subsection (56)(a)(iii); or  
4811 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described  
4812 in Subsection (56)(a)(iii);  
4813 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on  
4814 or before June 30, 2027, of tangible personal property that:  
4815 (i) is leased or purchased for or by a facility that:  
4816 (A) is located in the state;  
4817 (B) produces fuel from alternative energy, including:  
4818 (I) methanol; or  
4819 (II) ethanol; and  
4820 (C) (I) becomes operational on or after July 1, 2004; or  
4821 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as  
4822 a result of the installation of the tangible personal property;  
4823 (ii) has an economic life of five or more years; and  
4824 (iii) is installed on the facility described in Subsection (57)(a)(i);  
4825 (b) this Subsection (57) does not apply to:  
4826 (i) tangible personal property used in construction of:  
4827 (A) a new facility described in Subsection (57)(a)(i); or  
4828 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or  
4829 (ii) contracted services required for construction and routine maintenance activities;  
4830 and  
4831 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
4832 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:  
4833 (A) the facility described in Subsection (57)(a)(i) is operational; or  
4834 (B) the increased capacity described in Subsection (57)(a)(i) is operational;  
4835 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a

4836 product transferred electronically to a person within this state if that tangible personal property  
4837 or product transferred electronically is subsequently shipped outside the state and incorporated  
4838 pursuant to contract into and becomes a part of real property located outside of this state;

4839 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
4840 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
4841 gross receipts, or other similar transaction excise tax on the transaction against which the other  
4842 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

4843 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
4844 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a  
4845 refund:

4846 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

4847 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
4848 which the sale is made;

4849 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
4850 sale prior to filing for the refund;

4851 (iv) for sales and use taxes paid under this chapter on the sale;

4852 (v) in accordance with Section 59-1-1410; and

4853 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
4854 the person files for the refund on or before June 30, 2011;

4855 (59) purchases:

4856 (a) of one or more of the following items in printed or electronic format:

4857 (i) a list containing information that includes one or more:

4858 (A) names; or

4859 (B) addresses; or

4860 (ii) a database containing information that includes one or more:

4861 (A) names; or

4862 (B) addresses; and

4863 (b) used to send direct mail;

4864 (60) redemptions or repurchases of a product by a person if that product was:

4865 (a) delivered to a pawnbroker as part of a pawn transaction; and

4866 (b) redeemed or repurchased within the time period established in a written agreement

4867 between the person and the pawnbroker for redeeming or repurchasing the product;

4868 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

4869 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

4870 and

4871 (ii) has a useful economic life of one or more years; and

4872 (b) the following apply to Subsection (61)(a):

4873 (i) telecommunications enabling or facilitating equipment, machinery, or software;

4874 (ii) telecommunications equipment, machinery, or software required for 911 service;

4875 (iii) telecommunications maintenance or repair equipment, machinery, or software;

4876 (iv) telecommunications switching or routing equipment, machinery, or software; or

4877 (v) telecommunications transmission equipment, machinery, or software;

4878 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible

4879 personal property or a product transferred electronically that are used in the research and

4880 development of alternative energy technology; and

4881 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4882 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

4883 purchases of tangible personal property or a product transferred electronically that are used in

4884 the research and development of alternative energy technology;

4885 (63) (a) purchases of tangible personal property or a product transferred electronically

4886 if:

4887 (i) the tangible personal property or product transferred electronically is:

4888 (A) purchased outside of this state;

4889 (B) brought into this state at any time after the purchase described in Subsection

4890 (63)(a)(i)(A); and

4891 (C) used in conducting business in this state; and

4892 (ii) for:

4893 (A) tangible personal property or a product transferred electronically other than the

4894 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

4895 for a purpose for which the property is designed occurs outside of this state; or

4896 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

4897 outside of this state and not required to be registered in this state under Section 41-1a-202 or

- 4898 73-18-9 based on residency;
- 4899 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 4900 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 4901 or
- 4902 (ii) a sale of a vehicle exempt under Subsection (33); and
- 4903 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 4904 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
- 4905 following:
- 4906 (i) conducting business in this state if that phrase has the same meaning in this
- 4907 Subsection (63) as in Subsection (24);
- 4908 (ii) the first use of tangible personal property or a product transferred electronically if
- 4909 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 4910 (iii) a purpose for which tangible personal property or a product transferred
- 4911 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
- 4912 Subsection (24);
- 4913 (64) sales of disposable home medical equipment or supplies if:
- 4914 (a) a person presents a prescription for the disposable home medical equipment or
- 4915 supplies;
- 4916 (b) the disposable home medical equipment or supplies are used exclusively by the
- 4917 person to whom the prescription described in Subsection (64)(a) is issued; and
- 4918 (c) the disposable home medical equipment and supplies are listed as eligible for
- 4919 payment under:
- 4920 (i) Title XVIII, federal Social Security Act; or
- 4921 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 4922 (65) sales:
- 4923 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 4924 District Act; or
- 4925 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 4926 tangible personal property is:
- 4927 (i) clearly identified; and
- 4928 (ii) installed or converted to real property owned by the public transit district;

- 4929 (66) sales of construction materials:
- 4930 (a) purchased on or after July 1, 2010;
- 4931 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 4932 (i) located within a county of the first class; and
- 4933 (ii) that has a United States customs office on its premises; and
- 4934 (c) if the construction materials are:
- 4935 (i) clearly identified;
- 4936 (ii) segregated; and
- 4937 (iii) installed or converted to real property:
- 4938 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 4939 (B) located at the international airport described in Subsection (66)(b);
- 4940 (67) sales of construction materials:
- 4941 (a) purchased on or after July 1, 2008;
- 4942 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 4943 (i) located within a county of the second class; and
- 4944 (ii) that is owned or operated by a city in which an airline as defined in Section
- 4945 59-2-102 is headquartered; and
- 4946 (c) if the construction materials are:
- 4947 (i) clearly identified;
- 4948 (ii) segregated; and
- 4949 (iii) installed or converted to real property:
- 4950 (A) owned or operated by the new airport described in Subsection (67)(b);
- 4951 (B) located at the new airport described in Subsection (67)(b); and
- 4952 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 4953 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
- 4954 common carrier that is a railroad for use in a locomotive engine;
- 4955 (69) purchases and sales described in Section 63H-4-111;
- 4956 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 4957 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 4958 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 4959 lists a state or country other than this state as the location of registry of the fixed wing turbine

4960 powered aircraft; or

4961 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul  
4962 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of  
4963 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
4964 lists a state or country other than this state as the location of registry of the fixed wing turbine  
4965 powered aircraft;

4966 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

4967 (a) to a person admitted to an institution of higher education; and

4968 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
4969 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
4970 textbook for a higher education course;

4971 (72) a license fee or tax a municipality imposes in accordance with Subsection  
4972 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced  
4973 level of municipal services;

4974 (73) amounts paid or charged for construction materials used in the construction of a  
4975 new or expanding life science research and development facility in the state, if the construction  
4976 materials are:

4977 (a) clearly identified;

4978 (b) segregated; and

4979 (c) installed or converted to real property;

4980 (74) amounts paid or charged for:

4981 (a) a purchase or lease of machinery and equipment that:

4982 (i) are used in performing qualified research:

4983 (A) as defined in Section 41(d), Internal Revenue Code; and  
4984 (B) in the state; and

4985 (ii) have an economic life of three or more years; and

4986 (b) normal operating repair or replacement parts:

4987 (i) for the machinery and equipment described in Subsection (74)(a); and  
4988 (ii) that have an economic life of three or more years;

4989 (75) a sale or lease of tangible personal property used in the preparation of prepared  
4990 food if:

- 4991 (a) for a sale:
- 4992 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 4993 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 4994 tangible personal property prior to making the sale; or
- 4995 (b) for a lease:
- 4996 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 4997 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 4998 personal property prior to making the lease;
- 4999 (76) (a) purchases of machinery or equipment if:
- 5000 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 5001 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 5002 System of the federal Executive Office of the President, Office of Management and Budget;
- 5003 (ii) the machinery or equipment:
- 5004 (A) has an economic life of three or more years; and
- 5005 (B) is used by one or more persons who pay admission or user fees described in
- 5006 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 5007 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 5008 (A) amounts paid or charged as admission or user fees described in Subsection
- 5009 59-12-103(1)(f); and
- 5010 (B) subject to taxation under this chapter; and
- 5011 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5012 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 5013 previous calendar quarter is:
- 5014 (i) amounts paid or charged as admission or user fees described in Subsection
- 5015 59-12-103(1)(f); and
- 5016 (ii) subject to taxation under this chapter;
- 5017 (77) purchases of a short-term lodging consumable by a business that provides
- 5018 accommodations and services described in Subsection 59-12-103(1)(i);
- 5019 (78) amounts paid or charged to access a database:
- 5020 (a) if the primary purpose for accessing the database is to view or retrieve information
- 5021 from the database; and

- 5022 (b) not including amounts paid or charged for a:
- 5023 (i) digital audio work;
- 5024 (ii) digital audio-visual work; or
- 5025 (iii) digital book;
- 5026 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 5027 payment service, of:
- 5028 (a) machinery and equipment that:
- 5029 (i) are used in the operation of the electronic financial payment service; and
- 5030 (ii) have an economic life of three or more years; and
- 5031 (b) normal operating repair or replacement parts that:
- 5032 (i) are used in the operation of the electronic financial payment service; and
- 5033 (ii) have an economic life of three or more years;
- 5034 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- 5035 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 5036 product transferred electronically if the tangible personal property or product transferred
- 5037 electronically:
- 5038 (a) is stored, used, or consumed in the state; and
- 5039 (b) is temporarily brought into the state from another state:
- 5040 (i) during a disaster period as defined in Section 53-2a-1202;
- 5041 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 5042 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 5043 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 5044 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 5045 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 5046 Recreation Program;
- 5047 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 5048 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
- 5049 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
- 5050 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
- 5051 parts:
- 5052 (a) are used in:

- 5053 (i) the operation of the qualifying data center; or
- 5054 (ii) the occupant's operations in the qualifying data center; and
- 5055 (b) have an economic life of one or more years;
- 5056 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 5057 vehicle that includes cleaning or washing of the interior of the vehicle;
- 5058 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 5059 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 5060 or consumed:
- 5061 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
- 5062 in Section 63M-4-701 located in the state;
- 5063 (b) if the machinery, equipment, normal operating repair or replacement parts,
- 5064 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 5065 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
- 5066 added to gasoline or diesel fuel;
- 5067 (ii) research and development;
- 5068 (iii) transporting, storing, or managing raw materials, work in process, finished
- 5069 products, and waste materials produced from refining gasoline or diesel fuel, or adding
- 5070 blendstock to gasoline or diesel fuel;
- 5071 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
- 5072 refining; or
- 5073 (v) preventing, controlling, or reducing pollutants from refining; and
- 5074 (c) beginning on July 1, 2021, if the person holds a valid refiner tax exemption
- 5075 certification as defined in Section 63M-4-701;
- 5076 (87) amounts paid to or charged by a proprietor for accommodations and services, as
- 5077 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
- 5078 imposed under Section 63H-1-205;
- 5079 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 5080 operating repair or replacement parts, or materials, except for office equipment or office
- 5081 supplies, by an establishment, as the commission defines that term in accordance with Title
- 5082 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 5083 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North

5084 American Industry Classification System of the federal Executive Office of the President,  
5085 Office of Management and Budget;  
5086 (b) is located in this state; and  
5087 (c) uses the machinery, equipment, normal operating repair or replacement parts, or  
5088 materials in the operation of the establishment; and  
5089 (89) amounts paid or charged for an item exempt under Section 59-12-104.10.

5090 **Section 35. Repealer.**

5091 This bill repeals:

5092 Section **59-7-118.1, Modification of installment due date for deferred foreign**  
5093 **income tax.**

5094 Section **59-7-504.1, Modification of estimated payment due date.**

5095 Section **59-7-505.1, Modification of return due date and extension period.**

5096 Section **59-7-507.1, Modification of time for payment of tax.**

5097 Section **59-10-103.2, Additional chapter definitions.**

5098 Section **59-10-114.1, Additional subtraction from income.**

5099 Section **59-10-514.2, Modification of return due date.**

5100 Section **59-10-516.1, Modification of extension dates and requirements.**

5101 Section **59-10-522.1, Limitation on commission authority to extend the time for**  
5102 **payment of tax.**

5103 Section **59-10-1403.4, Modification of return filing requirements for pass-through**  
5104 **entity.**

5105 Section **59-12-103.3 (Effective 01/01/21), Sales and use tax base -- Rate for**  
5106 **locomotive fuel.**